
Evaluating Seattle Parking Tax Options

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Abstract

This report describes and evaluates parking tax options for possible implementation by the City of Seattle. A commercial parking tax is a special tax on priced parking. A non-residential parking tax (NRPT) is a special tax that applies to both unpriced and priced parking. Commercial parking taxes discourage the pricing of parking and concentrate impacts in a few areas. Non-residential parking taxes distribute cost burdens more broadly, encourage property owners to manage parking supply more efficiently, which tends to reduce total parking costs, reduce automobile traffic, and reduce sprawl. Although non-residential parking taxes are more challenging to implement, they tend to support more of Seattle's strategic planning objectives.

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Introduction

In 2007 the City of Seattle implemented a commercial parking tax levied on motorists who pay to park a motor vehicle within Seattle city limits (Seattle 2007). The rate was 5 percent from July 2007 to June 2008, 7.5 percent from July 2008 to June 2009, and 10 percent starting July 2009. Municipal on-street, residential, and reserved long-term (a parking space rented to a specific individual for at least one month) parking are exempt.

The tax yielded \$13.4 million in 2008, which increased to \$17.8-18.8 million in 2009 and is forecasted to yield \$21.3-21.8 million in 2010 (Seattle 2010 Adopted Budget)¹. This tax has generated significantly more money than was originally projected, in part because the city underestimated the amount of paid parking at institutions such as hospitals, campuses, and office buildings. The commercial parking tax revenues of approximately \$21 million compares with parking meter revenues of \$25.2 million in 2009 and \$28.6 million in 2010.

This tax only applies to commercial parking transactions, that is, when a motorist pays directly for a parking space available to the general public. This type of tax has several impacts that tend to contradict the city's strategic planning objectives: 1) it makes user-paid parking less profitable and therefore less attractive to parking facility owners; 2) it increases the value to motorists of parking subsidies (that is, it makes subsidized parking a more valuable employee benefit and bundled parking more valuable to renters); which 3) tends to reduce the portion of parking that is efficiently priced; and 4) it places most of the tax burden on major commercial districts and campuses, where user-paid parking is more common, and so places them at a competitive disadvantage with shopping malls and other automobile-oriented development, where parking is generally unpriced.

This tax also contradicts efforts by the University of Washington (UW) to encourage more efficient travel behavior. It applies to the University's parking facilities because, in order to discourage driving to campus and to effectively manage limited parking resources, the UW charges for parking and does not dedicate parking to the exclusive long-term use of individual employees or students. Because the UW has raised parking fees to relatively high levels, the parking rates are reaching the point of diminishing marginal returns, that is, price increases do not significantly increase overall revenue. The UW charges as much for parking as the market will bear, partially to discourage driving to campus and also to generate revenue for the U-PASS program. Today, U-PASS program costs far exceed potential parking proceeds. As a result, the commercial parking tax has directly diminished the campus parking revenues available to finance the U-PASS program and help subsidize transit passes for UW students, staff, and faculty. Consequently, a further increase in the commercial parking tax will result in higher U-PASS user fees, which in turn result in lower U-PASS utilization and diminished program effectiveness.²

¹ www.seattle.gov/financedepartment/10adoptedbudget/2010_ADOPTED_BUDGET.pdf.

² For detailed information on the fiscal and travel impacts of different tax and price rates see Heffron Transportation 2010.

Evaluating Seattle Parking Tax Options

Analysis described in this report indicates that alternative parking tax structures, such as a tax on all non-residential parking (also called parking *stalls* in this report), or an impervious surface stormwater management fee based on parking facility surface area (square feet or meters), would be more consistent with the city's strategic planning objectives to encourage use of alternative modes, increase development affordability and equity, support infill, and reduce sprawl.

This report describes and compares various parking taxes and evaluates their impacts related to various strategic planning objectives. It

- identifies parking tax options
- evaluates and compares these parking tax options
- develops and analyzes an alternative to Seattle's existing commercial parking tax
- identifies specific policy and legal changes required to implement parking tax changes.

Types of Parking Taxes

Commercial Parking Taxes

A commercial parking tax (also called an *ad valorem tax*) is a special sales tax imposed on rental parking transactions.

Implementation

Implementation requires the commercial parking operator to maintain reliable records of revenues or transactions.

Impacts

By increasing the value of parking subsidies and reducing commercial parking profitability, this tax tends to reduce the amount of priced parking (i.e., parking for which users pay directly). For example, without a tax, a free parking space may be worth \$1,000 in pre-tax wages to an employee (what the employee would need to earn in pre-tax wages to pay for the parking directly), but with a 20 percent tax it becomes worth more than \$1,200. This makes parking subsidies a more valuable and attractive employee benefit. Similarly, this type of tax increases the value of building space with parking included rather than rented separately, so developers are likely to increase the amount of parking bundled with building rents. The resulting reduction in the portion of parking that is priced reduces both commercial parking tax and sales tax revenues. It also tends to increase vehicle travel.

A commercial parking tax applies primarily in downtowns and other major urban centers, where a larger portion of parking is priced, and not in suburbs and city neighborhoods where most parking is provided free. This makes urban centers relatively less economically competitive in comparison with suburban and neighborhood locations where parking is unpriced. In this way, commercial parking taxes can increase total parking subsidies and sprawl, contradicting other planning objectives.

Examples of Commercial Parking Tax Policies and Outcomes from Those Taxes

- The City of Seattle applies a 10 percent tax on all commercial parking transactions within the city, excepting municipal on-street, residential, and reserved long-term (a parking space rented to a specific person for at least one month) parking (Seattle 2007).
- The City of San Francisco imposes a 25 percent tax on all commercial off-street, non-residential parking transactions (“any rent or charge required to be paid by the user or occupant of a parking space”). Revenues are divided between the city’s general revenue, public transportation, and senior citizen funds.
- The City of Pittsburgh imposes a 31 percent parking tax (increased to 50 percent in 2005), the highest rate in the U.S. Parking operators indicated that they had been able to pass the majority of the tax onto the users but had absorbed some of the tax themselves.

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- The City of Miami imposes a 20 percent tax on all commercial, non-residential, off-street parking for which a fee is charged. Parking operators found that the tax had a significant negative impact on operating income and that they had to absorb most of the tax, although the Miami Downtown Development Authority found no decline in business activity or increase in vacancies due to this tax (Berk & Associates, 2002).
- The City of Los Angeles imposes a tax of 10.6 percent on fee-based parking, excluding on-street and residential parking. The tax was introduced in 1990 and was fully passed on to users (parking operators did not absorb any of the tax). The tax was felt to have negligible impact on driving habits. The tax generates approximately \$58 million, flowing into general revenues (Berk & Associates, 2002).
- The City of Chicago imposes a flat tax (rather than a percentage tax) on daily, weekly, and monthly parking, as summarized below. It contributes to general revenues.

Chicago parking tax rate

Hourly	Weekly	Monthly
If fees are \$2 - \$5 Tax is \$0.75	If fees are \$10 - \$25 Tax is \$3.75	If fees are \$50 - \$100 Tax is \$15.00
If fees are over \$5 Tax is \$2.00	If fees are over \$25 Tax is \$10.00	If fees are over \$100 Tax is \$40.00

- New York City imposes a tax of 18.5 percent on commercial parking and 10.5 percent on residential parking in Manhattan.

Table 1 summarizes examples of commercial parking taxes in U.S. cities, indicating that they range from 6 to 31 percent of revenues.

Table 1 Parking taxes in various cities (various sources)

City	Parking Tax
Bainbridge Island, Washington	12% of revenues on both public and private parking facilities.
Bremerton, Washington	6% of commercial operator revenues.
Burien and SeaTac, Washington	\$1.00 per parking transaction. Exemptions for people with disabilities, government vehicles and carpools.
Baltimore, Maryland	\$14 flat fee on monthly parking transactions, 11% on daily and weekly parking.
Cleveland, Ohio	8% tax to fund a new football stadium.
Detroit, Michigan	30% tax on airport commercial parking.
Los Angeles, California	10% of parking revenues.
Miami, Florida	27.8% of revenues.
New York, New York	18.5%, or 10.5% for Manhattan residents.
Oakland, California	10% of revenues.
New Orleans, Louisiana	12% of revenues.
Pittsburgh, Pennsylvania	31% of revenues.
Santa Monica, California	10% of revenues.

Non-Residential Parking Tax (NRPT)

A non-residential parking tax (NRPT) is a tax applied to all non-residential parking, either per stall or based on surface area (i.e., per square foot) regardless of whether it is priced or unpriced. In other countries, this is called a *parking levy*. Such a tax can be structured to support specific planning objectives, such as applying a levy only on *unpriced parking*, to encourage property owners to price parking.

Implementation

An NRPT requires an inventory of parking stalls or parking facility surface area.

Impacts on Parking Supply and Pricing

By increasing the annual cost of each parking space to property owners, per space or per square foot taxes can help reduce total parking supply and encourage the pricing of parking, provided this is allowed by local regulations and laws. For example, an NRPT may cause a 5 to 10 percent reduction in total parking supply and a similar size increase in the portion of parking that is priced. Supply reductions primarily affect infrequently used spaces, particularly if property operators are allowed and encouraged to reduce parking supply.

Examples

Examples of non-residential parking taxes are described below.

Australian Experience

Three Australian cities have special levies on non-residential urban parking, intended to encourage the use of alternative modes and to fund transport facilities and services:

- In Sydney, a *Parking Space Levy* of AU\$800 per stall is currently applied annually to parking in the central business district (CBD) and AU\$400 per stall at other business districts. The levy applies to all privately owned, non-residential, off-street parking. It is prorated for parking facilities that are used only occasionally, such as church parking lots; property owners must maintain daily records indicating how often such space is used. The levy raises more than AU\$40 million annually, which is dedicated to transportation projects and cannot be used for operating expenses.
- In Perth, parking suppliers within the CBD and surrounding area must pay a *Parking License Fee*, which has different rates for short-term and long-term use facilities (DPI, 2002). Owners only pay for the number of parking spaces that are actually in use and may shift a space from one category to another (from “in use” to “out of use”) and pay a prorated amount if appropriate for part of a year. When first introduced in 1999, the levy was AU\$70 per space but by 2006 had risen to AU\$169 for short-stay parking and AU\$195 for commuter-orientated parking. Businesses with five parking stalls or less are exempted from the charge. The levy raises about AU\$9 million annually.
- In Melbourne, a *Long-Stay Car Park Levy* is charged to designated long-stay and permanently leased parking spaces in CBD commercial car parks. The levy is intended to encourage car park owners to convert long-stay spaces into short-stay

spaces, creating more parking options for shoppers and visitors. The levy applies to about 52,000 CBD off-street parking spaces (Victoria Department of Treasury and Finance, 2010).

Perth and Sydney have similar tax collection procedures. The state government’s revenue collection agency sends a parking license application to all non-residential property owners within the designated area. Property owners are required to return the completed application indicating all parking spaces on their property, including land used for motor vehicle parking even if parking spaces are not marked out. In Sydney, for example, where an unmarked area is used for parking, the number of spaces is determined by dividing the total area by 25.2 square meters, which takes into account parking spaces and access lanes. Owners are sent an annual assessment based on this application. In Perth, parking license holders are responsible for ensuring that the number of vehicles parked anywhere within the boundary of their property is within the number licensed. The licensing and payment of the levy for on-street parking is the responsibility of local governments, which meet this requirement from the revenue generated from their on-street parking operations. Table 2 compares features of the Sydney, Perth, and Melbourne levies.

Table 2 Parking levy comparison (Enoch, 2001 and other sources)

	Sydney	Perth	Melbourne
Name	Parking Space Levy	Parking License Fee	Long Stay Car Park Levy
First Implemented	1992	1999	2006
Annual Levy	Central CBD: \$800 Other districts: \$400	Short stay: \$155 Long stay: \$180	\$400 annually in 2006 \$800 annually in 2007
Annual revenues generated	AU\$40 million	AU\$8.2 million	\$19 million first year \$39 million second year
Use of revenues	Transport facilities	Downtown transit	CBD transport
<i>Exceptions</i>			
On-street	Exempt	Not exempt	Exempt
Residential use	Exempt	Exempt	Exempt
Part-time facilities	Pro-rated by use	No reduction	Exempt
Publicly owned facilities	Exempt	Not exempt	Exempt
Currently unused spaces	Not exempt	Exempt	Exempt
Small businesses (5 stalls or fewer)	Not exempt	Exempt	
Disabled persons parking	Exempt	Exempt	Exempt
Loading & taxi parking bays	Exempt	Exempt	Exempt
Public service vehicle spaces	Exempt	Exempt	Exempt
Service (e.g., repairs) spaces	Exempt	Exempt	Exempt
Car sales and service spaces	Exempt.	Exempt	Exempt

Perth officials consulted extensively with stakeholders prior to the levy’s introduction. As a result, there was an approximately 98 percent compliance rate the first year. When first applied in 1999, there were about 58,000 stalls, of which about 4,000 were exempt on usage grounds and 2,000 because they were owned by small businesses. This was about 10 percent fewer than recorded in a 1998 survey, indicating that the levy reduced downtown parking supply. Most of the eliminated spaces were situated near the edge of the levy area and remote from the areas of high parking demand (Enoch, 2001). Some

businesses decommissioned spaces to meet the five stalls or less exemption, and some long-stay parking was converted to short-stay use, increasing parking availability and turnover.

Vancouver, British Columbia (www.bcrelinks.com/articles/rbj3-new.htm)

TransLink, the Vancouver, British Columbia, regional transportation authority that builds and operates roads, bike paths, and public transport services, implemented a Parking Site Tax in 2006. The initial rate was \$1.02 annually per square meter of non-residential parking facility, typically \$25-\$40 per space. *BC Assessment*, a provincial agency, was charged with assessing and collecting the tax by using the existing property tax framework. The agency used aerial photos, digital mapping, municipal records, and site visits to develop an inventory of non-residential parking facilities in the region.

Exemptions include the following:

- on-street parking
- most buildings exempt from general property taxes (schools, churches, synagogues, etc.)
- parking facilities used for vehicle retail and rental business inventory storage, impounded vehicles, trailers of tractor-trailer units, vehicle servicing and fueling
- parking facilities owned by TransLink (including park-and-ride lots)
- ferry loading queuing areas
- campgrounds.

This tax was criticized by suburban businesses. In 2007 the Provincial government changed TransLink's charter to, among other things, eliminate the parking property tax and replace it with other revenue sources, including a sales tax on parking transactions. This began as a 7 percent tax but increased to 21 percent in 2010.

Toronto Commercial Concentration Tax

During the early 1990s, the Ontario provincial government imposed a Commercial Concentration Tax (CCT) of \$1.00 per square foot per annum on commercial properties larger than 200,000 square feet in the Toronto area to fund transit and road programs. Large-scale paid parking facilities were subject to this tax, although the tax was not specific to parking. Unexpectedly, some of the largest impacts were on suburban parking facilities, where the fee was relatively large in comparison to paid parking revenues. As a result, suburban area municipal lots and transit park-and-ride lots abolished their parking fees to avoid paying the tax (IBI, 2000). The tax had no apparent impact on regional vehicle travel, since it caused a relatively small price increase in downtown areas, and had little or no impact in suburban areas where most parking is free, and in some cases resulted in the elimination of parking charges to avoid the tax. The tax was highly criticized because it generated revenues from Toronto businesses but used the revenues to fund projects in other parts of the province; it was repealed after three years.

Montreal Parking Space Tax (<http://spacingmontreal.ca/2010/01/17/the-parking-lot-tax>)

The 2010 City of Montreal budget includes a new tax on off-street parking facilities. The charges range from \$4.95 per square meter for neighborhood structured parking up to \$19.80 per square meter for CBD surface parking, or \$75 to \$300 annually for a three-by-five-meter space. The city expects to collect around \$20 million dollars per year, which is earmarked for improving public transit.

Stormwater Fees

Stormwater fees are special use charges applied to impervious surfaces (pavement and buildings) to fund stormwater management systems (drain systems, treatment facilities, etc.). Such fees range from about \$5 to \$20 per 1,000 square feet, or about \$1 to \$7 annually per off-street parking space, as indicated in Table 3.

Table 3 Annualized stormwater fees (PCW, 2002)

Jurisdiction	Fee	Per 1000 Sq. ft.	Per Space
Chapel Hill, NC	\$39 annual 2,000 sq. ft.	\$19.50	\$6.50
City of Oviedo Stormwater Utility, FL	\$4.00 per month per ERU	\$15.00	\$5.00
Columbia County Stormwater Utility, GA	\$1.75 monthly per 2,000 sq. ft.	\$10.50	\$3.50
Kitsap County, WA	\$47.50 per 4,200 sq. ft.	\$11.30	\$4.00
Raleigh, NC	\$4 monthly per 2,260 sq. ft.	\$18.46	\$6.00
Spokane County Stormwater Utility, WA	\$10 annual fee per ERU.	\$3.13	\$1.00
Wilmington, NC	\$4.75 monthly per 2,500 sq. ft.	\$22.80	\$7.50
Yakima, WA	\$50 annual per 3,600 sq. ft.	\$13.88	\$6.50

“Equivalent Run-off Unit” or ERU = 3,200 square foot impervious surface.

Worksite Parking Levies

Some European jurisdictions allow workplace parking levies to raise revenues and encourage commute alternatives. Implementation has been limited. Below are examples:

- In 1999 the Irish Minister of Finance considered but did not implement a tax on free commuter parking at urban worksites, and is now considering applying a higher property tax rate on parking than other types of property (Enoch, 2001).
- A Dutch *Parking Policy Implementation Paper* promotes policies that tightly restrict parking in city centers and limit parking availability in other areas based on accessibility to public transport. Cities such as Amsterdam and Leiden have implemented city center parking management programs, including taxes on long-term parking to discourage commuting by car. Short-term parking is exempt to accommodate shoppers and business trips and to keep city center businesses competitive with suburban businesses.
- The City of Nottingham, England, plans to implement a Workplace Parking Levy (WPL) on employers that provide 11 or more parking places starting April 2012 (www.nottinghamcity.gov.uk/index.aspx?articleid=2566). It is a charge on businesses; employers decide whether or not to pass the charge on to their employees. All WPL revenue will be invested into improving public transport.

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This is being implemented as an alternative to a road user charge. The WPL is projected to reduce traffic congestion. The pricing itself is expected to have only a small impact, since only a small portion of the fee is expected to be passed on to commuters, but the additional transit service funding is predicted to increase city center public transport travel by over 20 percent and reduce area traffic growth from 15 percent to only 8 percent, which should provide significant congestion reduction benefits.

Comparison of Impacts

The survey of parking taxes reveals two general approaches. The first is a tax on the transaction of renting a parking space and the second is a tax on non-residential, privately owned parking facilities.

A tax's impacts on parking supply, parking price, and travel patterns depend on how it is structured and its magnitude. Below are factors that affect these impacts:

- A tax that applies only to priced parking tends to increase commercial parking prices and reduce the portion of parking provided by commercial operators, since it reduces profitability and increases the value to motorists of subsidized and bundled parking.
- A tax that applies to all parking facilities tends to reduce total parking supply if that is allowed, particularly if it is supported by other parking management strategies such as programs to encourage sharing of parking facilities and use of alternative modes.
- A tax that applies only to unpriced parking will tend to reduce parking supply and increase the portion of parking that is priced.
- A tax or fee that applies in a relatively small geographic area may shift some parking facilities and activities to other, lower-taxed areas.
- An impervious surface fee or tax based on the square footage of parking could be structured to encourage fewer and smaller parking lots and driveways.

Because only a small portion of parking is priced, a commercial parking tax must collect far more revenue per space than a non-residential parking tax to raise a given amount of revenue. For example, a commercial parking tax might need to collect \$250 per priced space whereas a per-space tax would only need to collect \$50 per space to generate the same revenue.

Commercial parking operators typically require a 10 percent or greater return on operations. They are unlikely to fully absorb a large parking tax; they would either pass it on to customers or close down a lot. To the degree that a tax is passed on to users, travelers can respond by paying the tax, changing modes of transportation (for example, from driving to cycling, ridesharing or public transit), changing destinations (for example, from city center to suburban mall), changing parking location (for example, using free parking outside the CBD and walking to their destination), or reducing parking duration (remaining downtown for less time). Such impacts depend on the price sensitivity of the market, referred to as the *price elasticity*. Where demand is elastic, a price increase will cause consumers to use significantly less parking, forcing commercial parking operators to absorb more of the tax or reduce parking supply.

Many studies have estimated the elasticity of parking demand ("Transportation Elasticities," VTPI, 2005). Elasticities typically range between -0.2 and -0.4 , indicating that a 10 percent increase in parking price reduces parking demand by 2 to 4 percent.

Many factors can affect these impacts. Price elasticities tend to be greater for longer-term users such as commuters than for shorter-term users such as shoppers, and are greater for a particular location (for example, a particular lot) than a larger area (for example, if all parking lots in a downtown increase their prices), since some motorists respond to price differences by switching where they park. These elasticities indicate that a 20 percent commercial parking tax that is fully passed on to users typically reduces parking demand in areas dominated by commercial parking by 4 to 8 percent but will have a much smaller effect on the total travel occurring by car.

Reductions in parking supply and increases in the portion of parking that is priced are likely to be largest if these taxes are implemented in conjunction with other parking management strategies, such as reductions in minimum parking requirements and standardized parking pricing systems (Litman, 2006). A per-space tax that applies only to unpriced parking can significantly increase the portion of parking that is priced and so can be an effective strategy to increase the amount of priced parking in a region.

Equity can be evaluated in many different ways, reflecting different concerns and perspectives. From a *horizontal equity* perspective (which assumes that people with similar abilities and needs should be treated equally), a parking tax can be considered most equitable if it is broadly applied, so the financial burden is broadly distributed. From this perspective, a per-space tax can be considered most equitable, especially in comparison to commercial parking taxes, which are only applied to a limited number of parking spaces.

Parking taxes and fees can be considered user fees, which are therefore most equitable if they reflect the external costs of parking facilities and motor vehicle use. From this perspective, per-space taxes and the pricing of public parking appear most equitable, especially if such taxes and fees vary to reflect differences in costs, such as higher rates in denser urban areas.

From a *vertical equity* perspective, a parking tax can be considered most equitable if the cost is borne mostly by higher income taxpayers. From this perspective, a commercial parking tax may be considered most equitable, since such facilities are mostly used by higher-income motorists, except in some urban neighborhoods where relatively low-income taxpayers also pay for parking. Other equity issues may include the impacts on businesses resulting from changes in their costs and costs to their customers, and impacts on the commercial parking industry and its employees.

Table 4 compares the two broad approaches to parking taxation, the transaction tax and the surface area/per-space tax. A third approach summarized in the earlier survey of options—the impervious surface or stormwater tax—does not target parking as directly (surface water management taxes are currently collected in Seattle and King County) and is therefore not included in this comparison.

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Table 4 Parking tax comparison

	Commercial Parking Tax	Per-Space / NRPT
Description	Tax on commercial (user paid) parking transactions.	Tax on parking spaces, either per-space or based on area.
Distribution of tax burden	Borne by commercial operators, motorists who use their services, and businesses in major commercial centers.	Borne by non-residential parking owners. Because it applies to all parking facilities the burden is widely distributed.
Implementation	Commercial operators pay based on their receipts. Some jurisdictions require operators to use certified revenue control systems that provide user receipts and transaction records.	Requires an inventory of parking spaces or parking square footage.
Parking supply	Tends to reduce commercial parking and encourage free parking. May reduce total supply where a significant portion of parking is provided by commercial operators.	By increasing the cost of owning parking facilities, this tax tends to reduce total parking supply, particularly parking spaces that receive minimal annual use.
Parking prices	Increases prices of commercial parking but reduces the portion of parking that is priced.	May increase the portion of parking spaces that are priced and encourage pricing that favors short-term use.
Parking management	Little impact.	By reducing parking supply, encourages better parking management.
Transport	By increasing parking prices, tends to reduce some vehicle trips, but they may also shift travel from urban to suburban locations. May also increase free parking, increasing vehicle use.	By reducing parking supply and increasing the portion of parking that is priced, it tends to reduce vehicle use, particularly if implemented with improvements to other travel modes.
Land Use	Because it primarily applies in major commercial centers and gives suburbs a competitive advantage, it encourages sprawl.	Because it applies to all non-residential parking and encourages reduced parking supply, it encourages more compact development.
Equity	By imposing costs on a limited portion of motorists, tends to be horizontally inequitable, but may be progressive with respect to income.	By distributing costs broadly among property owners and motorists, tends to increase horizontal equity, particularly if considered a user fee.

Analyzing an Alternative: A Non-Residential Parking Tax

Having established that a viable alternative to Seattle’s commercial parking tax (CPT) exists in the form of a non-residential parking tax (NRPT), this section estimates the specific impacts that an NRPT would have if applied in the City of Seattle. It considers the amount of revenue that could be collected in comparison to the CPT, based on the number of NRPT eligible parking spaces in the city under a variety of scenarios, the authority the City currently has or would need to impose such a tax, and its ease of implementation.

Why adopt a non-residential parking tax in place of Seattle’s current commercial parking tax? A non-residential parking tax would more comprehensively support Seattle’s transportation, land-use, and sustainability policies and goals and would spread the burden of paying for automobile use to residents and businesses across the city. The most important difference between the existing commercial parking tax (CPT) and the proposed NRPT is that the CPT currently collects revenue from priced parking only. The proposed NRPT would apply to all non-residential, off-street parking, whether priced or “free.”

- Seattle’s comprehensive plan calls for focusing new growth and development into urban villages. These compact, mixed-use centers provide goods and services, residences, and workplaces within walking, biking, or transit access and are not solely reliant on the private automobile. By making parking downtown and in dense neighborhood centers more expensive, the current commercial parking tax has the unintended effect of encouraging more auto-dominated activity away from downtown and urban centers.
- Unpriced parking, or parking that does not currently generate revenue for the City of Seattle, not only encourages more car use, it also devotes a larger amount of space to each parking stall than priced parking—as much as twice the number of square feet per stall based on our analysis. This runs counter to the City’s goal of using scarce land for dense, compact development and limiting the presence of impervious surfaces in favor of open spaces and vegetation.
- The current tax applies primarily to one class of parking provider, most notably commercial parking operators in the CBD, conveying a competitive advantage to businesses outside of downtown, which do not charge customers directly for parking. Hence it is not applied with horizontal equity to other neighborhoods and businesses.
- The current tax applies to institutional parking providers such as the UW and Children’s Hospital with the unintended consequence of taking funds away from highly successful transportation demand management (TDM) programs that reduce auto use and support transit.

How would a non-residential parking tax work as an alternative to the existing commercial parking tax and what would its impacts be to city revenue? The following financial analysis discusses these impacts in greater detail.

CPT Tax Revenue Projections

The tables below show total revenue forecasts (non-inflation adjusted dollars) for the current CPT and for various CPT proposals considered by the City Council and Mayor of Seattle. Each table varies one assumption used in the calculation of the revenue forecast. In addition, each table shows a historical 2010 and a projected 2011 10 percent “no change” tax rate for reference. The tables are arranged to show financial estimates from the fewest to the greatest “parking units.” That is, as one reads across a row, estimates represent greater amounts of total parking from left to right.

The method used to calculate these forecasts was a formula derived from standard tax revenue equations and employed data provided by the City of Seattle. The revenue projections conducted by the City and those in this analysis were found to be within approximately 2 percent of each other. Greater detail on the revenue forecast formula used in this analysis can be found in the Assumptions section later in this chapter.

Tax Rate Sensitivity Scenario

In general, economists assume that changes in prices facing customers will alter their consumption behavior. In the case of taxation, this is accounted for by measuring how sensitive tax revenues are to changes in the tax rate. According to City of Seattle estimates, as the tax rate increases, the amount of growth in the tax base will decrease. This may result from consumers purchasing less parking, or parking providers reducing the pay-to-park services they offer or even leaving the commercial parking market entirely in response to increased tax burden.

Table 5 Q: What is the estimated revenue Seattle can expect from the CPT under different tax proposals, and how sensitive is that estimate to measures of tax rate sensitivity?*

Commercial Parking Tax Proposals	Estimated CPT Revenues		
	High Sensitivity to Tax Increase (e=-1.72,-1.35)	City Estimate of Tax Sensitivity(e=-.76,-.68)	Low Sensitivity To Tax Increase (e=-.04,-.13)
2010 Adopted (10%)	No Change in Tax Rate ³	\$21,840,010	No Change in Tax Rate
2011 Proposed (10%)	No Change in Tax Rate	\$22,387,240	No Change in Tax Rate
2011 Proposed (12.5%)	\$27,480,337	\$28,151,954	\$28,655,667
2011 Proposed (17.5%)	\$36,200,167	\$38,159,051	\$39,765,335

*Revenue estimates in this table were calculated with the formula explained in the Assumptions section. Values in the column “City Estimate of Tax Sensitivity” vary slightly from official City estimates.

A: Changes in revenue forecasts under different tax sensitivities are relatively small. The largest spread (17.5 percent CPT tax proposal) reflects a 9 percent increase from high to low sensitivity.

³ Since this scenario measures sensitivity to tax rate changes, forecasts for proposals that maintain current tax rates are not meaningful.

Tax Base Growth Scenario

The tax base that generates revenue for the CPT can change for a number of reasons. One is sensitivity to tax rate changes, described in the previous table. Others include general population increases that lead to additional parking providers, changes in the pay-to-park market, and changes in consumer behavior.

The revenue forecast formula assumes a single base growth rate that captures all of these effects except for tax sensitivity. To determine how important tax base growth is in the calculation of these forecasts, tax base growth was allowed to vary.

Table 6Q: What estimated revenue can Seattle expect from the CPT under different tax proposals, and how sensitive is that estimate to growth of the tax base?

Commercial Parking Tax Proposals	Estimated CPT Revenues		
	Low Growth Estimate (0%)	City Growth Estimate (2.5%)	High Growth Estimate (5%)
2010 Adopted (10%)	\$21,840,010	\$22,386,010	\$22,932,011
2011 Proposed (10%)	\$22,387,240	\$22,387,240	\$23,506,602
2011 Proposed (12.5%)	\$27,452,353	\$28,151,954	\$28,851,556
2011 Proposed (17.5%)	\$37,179,609	\$38,159,051	\$39,138,492

A: Tax base growth rates affect the calculation of total forecasts even less than tax sensitivity. The largest difference based on low to high growth estimates results in only a 5 percent increase in forecasted revenue.

Because both Table 5 and Table 6 show little change in forecasted revenues across all scenarios, we are confident in using the mid-level revenue forecast (Table 5, center column) as the relevant average forecasted CPT revenue for future calculations.

Projected Tax Revenue Scenarios Per Square Foot

The proposed NRPT imposes a fee on the surface area devoted to parking, not the transaction of renting a parking space. To project revenue derived from the NRPT it is necessary to estimate the amount of land devoted to non-residential off-street parking in the city. This analysis used a combination of assessor’s data plus aerial photography assembled by the Urban Form Lab at the University of Washington (see the Assumptions section).

CPT Revenues Per Square Foot

The CPT generates tax revenue only through priced parking in Seattle. Table 7 describes the amount of tax CPT parking providers currently pay per stall and considers the sensitivity to square foot estimates. These rates are calculated to meet the mid-level revenue forecast (Table 5, center column).

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Table 7 Q: How much revenue per square foot does the CPT yield, and what is the relationship of tax rates to square footage estimates?

Commercial Parking Tax Proposals	Estimated CPT Revenue Per Sq. Ft.			
	Year	Low Sq. Ft. Estimate	Mid Sq. Ft. Estimate	High Sq. Ft. Estimate
2010 Adopted (10%)		\$0.42	\$0.35	\$0.31
2011 Proposed (10%)		\$0.43	\$0.36	\$0.32
2011 Proposed (12.5%)		\$0.54	\$0.46	\$0.40
2011 Proposed (17.5%)		\$0.73	\$0.62	\$0.54

Calculation method: The tax estimates in Table 7 were found by dividing the mid-level revenue forecast (Table 5, center column) by the square foot estimate of priced parking (Table 14).

A: Various square footage estimates and CPT tax rate scenarios yield between \$.31 to \$.73 per square foot. The increase from low to high square foot estimates for each tax rate scenario is approximately 35 percent. This is noteworthy because the estimates themselves may not be precise (discussed further in “Estimated Square Footage” in the Assumptions section).

NRPT Revenues Per Square Foot

In contrast to the CPT, the NRPT tax option would not depend on parking providers to collect and transfer the tax based on revenues. The NRPT would be levied on non-residential off-street parking that is both priced and unpriced, either by stall or per square foot. Table 8 suggests the NRPT tax required per square foot if the City wished to meet current CPT revenue forecasts. This table also compares the sensitivity of these revenue estimates to parking square footage estimates (discussed in the Assumptions section). These rates are calculated to meet the mid-level revenue forecast (Table 5, center column).

Table 8 Q: How much NRPT tax per square foot would the City need to charge all parking providers to match CPT revenues, and how sensitive are these tax rates to square footage estimates?

Commercial Parking Tax Proposals	Estimated NRPT Revenue Per Sq. Ft. Required To Meet Current CPT Revenues			
	Year	Low Sq. Ft. Estimate	Mid Sq. ft. Estimate	High Sq. Ft. Estimate
2010 Adopted (10%)		\$0.18	\$0.15	\$0.13
2011 Proposed (10%)		\$0.18	\$0.15	\$0.13
2011 Proposed (12.5%)		\$0.23	\$0.19	\$0.16
2011 Proposed (17.5%)		\$0.31	\$0.26	\$0.22

Calculation method: The tax estimates in Table 8 were calculated by dividing the mid-level revenue forecast for CPT (Table 5, center column) by the sum of the square foot estimates of priced and unpriced parking (Table 14).

A: Similar to the CPT per square foot estimates, NRPT revenue per square foot varies by 39 percent from high to low estimates of square footage. The increase in variability in comparison to that of CPT per square foot projections is likely due to the fact that much larger square footage estimates are needed to calculate the NRPT projections. The reliability of square footage estimates is described in the Assumptions section.

CPT and NRPT Revenues Per Square Foot Compared

Table 9 summarizes the range of revenue estimates per square foot between the CPT and proposed NRPT tax options. The current CPT tax is about two and a half times as much as the alternative NRPT per square foot. The ranges were drawn from the scenario analysis tables (tables 7 and 8).

Table 9 CPT and NRPT Revenue Estimates Per Square Foot Comparison

Commercial Parking Tax Proposals	Estimated Revenue Range Per Sq. Foot	
	CPT	NRPT
Year		
2010 Adopted (10%)	\$0.31 - \$0.42	\$0.13 - \$0.18
2011 Proposed (10%)	\$0.32 - \$0.43	\$0.13 - \$0.18
2011 Proposed (12.5%)	\$0.40 - \$0.54	\$0.16 - \$0.23
2011 Proposed (17.5%)	\$0.54 - \$0.73	\$0.22 - \$0.31

Projected Tax Revenue Scenarios Per Stall

In addition to a square foot tax, this analysis also considers a per stall tax. Scenario analyses of a per stall tax for the CPT and proposed NRPT are discussed in the next two subsections, and the last subsection compares the CRT and NRPT per stall estimate ranges in a summary table.

CPT Revenues Per Stall

Table 10 describes the amount of CPT parking providers currently pay on average per stall, and considers the sensitivity to stall count estimates. These rates are calculated to meet the mid-level revenue forecast for CPT (Table 5, center column).

Table 10 Q: How much tax per stall would parking providers pay under CPT proposals, and how sensitive are these tax rates to per stall estimates?

Commercial Parking Tax Proposals	Estimated CPT Revenue Per Stall		
	Low Stall Count	Mid Stall Count	High Stall Count
Year			
2010 Adopted (10%)	\$152.81	\$114.61	\$64.95
2011 Proposed (10%)	\$156.64	\$117.48	\$66.57
2011 Proposed (12.5%)	\$196.98	\$147.73	\$83.71
2011 Proposed (17.5%)	\$266.99	\$200.25	\$113.47

Calculation method: The tax estimates in Table 10 were found by dividing the mid-level revenue forecast for CPT (Table 5, center column) by the stall count estimates of priced parking (Table 17).

A: This table shows very large spreads between revenues from high to low stall count estimates. In some cases, the change in projected revenue is over 130 percent. One explanation for this sensitivity is that stall count estimates are dependent on both square footage and stall size figures, compounding errors in the measurement of both. In addition, low and high stall estimates have an extreme range (see "Estimating Stall Size" in the Assumptions section). For this reason, we should be careful when interpreting these revenue estimates.

NRPT Revenues Per Stall

Similar to the NRPT per square footage estimates in the previous section, Table 11 compares revenue projections for different stall count estimates for all priced and unpriced non-residential parking in Seattle. Table 11 describes the minimum per stall tax required to meet the mid-level revenue forecast for CPT (Table 5, center column).

Table 11 Q: Under the NRPT option, how much tax per stall would the City need to charge all parking providers to match the revenues of each tax proposal, and how sensitive are these tax rates to stall count estimates?

Commercial Parking Tax Proposals	Estimated NRPT Revenue Per Stall Required To Meet Current CPT Revenues			
	Year	Low Stall Count	Mid Stall Count	High Stall Count
2010 Adopted (10%)		\$63.39	\$47.54	\$26.94
2011 Proposed (10%)		\$64.98	\$48.74	\$27.62
2011 Proposed (12.5%)		\$81.71	\$61.29	\$34.73
2011 Proposed (17.5%)		\$110.76	\$83.07	\$47.07

Calculation Method: The tax estimates in Table 11 were found by dividing the mid-level revenue forecast for CPT (Table 5, center column) by the sum of the stall count estimates of priced parking and unpriced parking (Table 17).

A: Similar to Table 10, Table 11 shows extreme ranges of revenue per stall, at nearly a 135 percent increase from high to low stall counts.

CPT and NRPT Revenues Per Stall Compared

Table 12 summarizes the range of revenue estimates per stall between the CPT and proposed NRPT tax options. The ranges were drawn from the scenario analysis tables (tables 10 and 11).

Table 12 CPT and NRPT Revenue Estimates Per Stall Comparison

Commercial Parking Tax Proposals	Estimated Revenue Range Per Stall	
	CPT	NRPT
2010 Adopted (10%)	\$64.95 - \$152.81	\$26.94 - \$63.39
2011 Proposed (10%)	\$66.57 - \$156.64	\$27.62 - \$64.98
2011 Proposed (12.5%)	\$83.71 - \$196.98	\$34.73 - \$81.71
2011 Proposed (17.5%)	\$113.47 - \$266.99	\$47.07 - \$110.76

Assumptions

Revenue Projections

Total tax revenue projections, which underlie the majority of this analysis, were calculated by using a formula (Figure 1) relying on historical tax revenue, assumptions

about tax base growth, and existing and proposed tax rate changes.⁴ The method below was derived from standard tax revenue formulas, and projections from this method and those provided by the City of Seattle were found to be within 2 percent of each other.

$$TR_2 = \frac{TR_1}{t} (t + \Delta t)(1 + G + \Delta G)$$

TR_1 = Total tax revenue in year 1
 TR_2 = Total projected tax revenue in year 2
 t = Tax rate in year 1
 Δt = Proposed tax rate change
 G = Assumed tax base growth rate
 ΔG = Assumed change in tax base growth rate

Figure 1: Revenue Projection Formula

Tax Sensitivity and Elasticity

When tax revenue growth is predicted on the basis of consumer demand, it is general practice to assume that changes in the tax rate will result in changes to overall projected revenues. One measure of this change is elasticity; in this analysis we are concerned with the percentage change in tax base growth for every percentage change in the tax rate. Figure 2 shows the general formula used to calculate tax base growth elasticity.

$$e = \frac{\% \Delta G}{\% \Delta T}$$

Figure 2: Tax Base Growth Elasticity Formula

The City of Seattle provided specific data regarding tax base elasticity in this analysis. In contrast, the high and low sensitivity estimate ranges were not derived from experimental data. Rather, they were chosen to represent a very insensitive to a moderately sensitive tax base, according to general economic theory. The tax sensitivities used in this analysis are outlined in Table 13 (Browning, 1983).

⁴ Direct correspondence with Dan Eder, City of Seattle. October 8th, 2010.

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Table 13 Q: What range of CPT tax sensitivity estimates will be used to calculate reasonable scenario analyses?

Tax Sensitivity Assumption Estimates			
Estimate Measure	Proposed Tax Rate	Estimated Decrease in Tax Base Growth	Tax Elasticity of Base Growth (e)
Low Estimate	12.5%	-0.1%	-0.04
	17.5%	-1.0%	-0.13
City Estimate	12.5%	-1.9%	-0.76
	17.5%	-5.1%	-0.68
High Estimate	12.5%	-4.3%	-1.72
	17.5%	-10.1%	-1.35

Estimating Square Footage

An estimate of total parking area in Seattle, as well as a citywide stall count estimate, are needed to forecast tax revenues per square foot. Table 14 summarizes estimates of total square feet of parking in Seattle by parcel use. Parcel use in this table was compiled from nearly 100 subcategories in King County Assessor’s records.

Square footage for each parcel type was estimated by using a number of methods and assembled in a recent report prepared by the Urban Form Lab at the University of Washington. For at-grade, non-institutional (universities, hospitals) parking, estimates of landscaped, building footprint, and undeveloped areas were subtracted from total parcel area. For structured, non-institutional parking, King County Assessor’s records were used to estimate total square footage. For institutional parking area, stall counts were drawn from major institution master plans (MMIP) and multiplied by the average stall size in Seattle (see Table 16) (Sharnhorst, 2010).

Table 14 Q: What is the range of estimated square footage of parking in Seattle by category?

Parking Square Footage Estimates			
Parcel Use	Low Sq. Ft. Estimate	Mid Sq. Ft. Estimate	High Sq. Ft. Estimate
Priced Parking	52,305,191.9	61,535,519.9	70,765,847.8
Unpriced Parking	71,683,243.5	86,799,642.6	101,916,041.6
Mixed Use Parking	6,548,973.7	7,704,674.9	8,860,376.2
Residential Parking	38,778,230.7	45,621,447.9	52,464,665.1
Total	169,315,639.8	201,661,285.3	234,006,930.7

Defining Parking Categories and Square Footage Ranges

The broad categories of parcel use were defined by a reasonable attempt to group Assessor parcel use subcategories into Priced, Unpriced, Mixed Use, and Residential groupings. The largest five square footage subcategories for each parcel type are shown in Table 15 (where possible). These groupings were not informed by any explicit information in the Assessor tables. Groupings were based on category name alone.

Table 15 Q: What are the top five largest parking categories?

Largest Estimates Per Parcel Category	
Parcel Categories	Estimated Square Feet
Priced	
Office Building	22,655,078
Institutional	9,527,998
Parking (Assoc)	8,596,888
Parking (Garage)	7,656,265
Parking (Commercial Lot)	4,217,291
Unpriced	
Warehouse	7,160,896
Church/Welfare/Relig. Srv.	7,762,051
Industrial (Heavy)	7,159,347
Service Building	6,788,982
Retail Store	6,610,124
Mixed Use	
Apartment	7,704,675
Condominium	5,490,370
Residential	
Apartment	22,120,608
Condominium (Residential)	16,995,753
Vacant (Multi-family)	1,763,730
Nursing Home	1,243,188
Townhouse Plat	1,096,478

To choose high and low estimates for square footage, considerations were made for the subcategories as follows:

Warehouse Parking: It is reasonable to assume that not all of Seattle warehouse parking areas are used exclusively for vehicle parking purposes. The low to high estimates assume that one-third to 50 percent of the warehouse square footage estimate is used for actual parking. The mid-estimate averages these two.

Vacant (Industrial/Commercial): Vacant industrial and commercial lots may or may not be used as parking space. For this reason, the low to high estimates assume 75 percent to 100 percent of the initial vacant industrial/commercial square footage estimate. The mid-estimate averages these two.

Auto Showrooms and Lots: Because auto showrooms and lots are largely taken up by merchandise stock, we assume 30 percent to 50 percent of auto showrooms and lots are available for actual parking. The mid-estimate averages these two.

All Other Categories: An arbitrary factor of +/-15 percent of current square footage estimates was used to construct high and low estimates of square footage for all other categories.

The decision method used to place these subcategories into priced, unpriced, mixed-use, and residential categories is likely the most important factor in determining the tax revenue projections in the scenario analyses. The mixed-use category was not a contributing factor in our analysis; mixed-use accounts for only 3 percent of total estimated parking area in Seattle.

Estimating Stall Count

Average stall size appears to vary significantly among parking lots, as shown below in Table 16. Experimental data from a sample of 10 parcels revealed the estimated size for a parking stall in Seattle (Sharnhorst, 2010).

Table 16 Q: What is the estimated size of a stall in Seattle?

Stall Size Sensitivity Assumptions	
Stall Size	Estimated Square Feet
Largest-Sized Stall	430.6
Average-Sized Stall	322.9
Smallest-Sized Stall	183.0

To estimate stall counts, the mid estimates for square footage from Table 14 were divided by each stall size estimate from Table 16. These estimates are shown below in Table 17.

Table 17 Q: What is the estimate of the total number of stalls in Seattle?

Stall Sensitivity Assumptions Per Parcel Use			
Parcel Use	Low Stall Count Estimate	Average Stall Count Estimate	High Stall Count Estimate
Priced Non-Residential	131,421.4	175,228.6	309,226.9
Unpriced Non-Residential	223,711.6	298,282.1	526,380.1
Mixed Use	17,894.7	23,859.6	42,105.2
Residential	124,002.7	165,336.9	291,771.0

This analysis draws on multiple sources and layers of assumptions to calculate stall counts and square footage estimates. At present, the data provided in this report comprise nearly all known information regarding measurements of non-public, off-street parking quantity and usage in Seattle. The difficulty of verifying these data and a lack of any reliable comparisons suggest that much greater research is required.

Implementation

The City will need to consider both financial and legal impacts if a non-residential tax is implemented.

Financial Costs of Implementation

An important area to consider whenever new tax policies are proposed involves the costs to public agencies of implementing the tax. Concrete estimates require a clearer picture of actual parking data in Seattle, determination of the agencies tasked with collection and enforcement, and an outline of the exact tax policy itself. This lies outside the scope of this analysis, and so cost considerations are presented only in general terms, below.

The largest cost from implementing a tax such as the NRPT would likely be the labor required to measure and enforce its collection. Depending on whether the tax was calculated on the basis of stalls or square footage, these costs could differ by very large amounts.

Stall method: To pursue the stall method, an accurate count of stalls for taxed parking providers is required. This count should at least be verified, if not conducted, by an appropriate government agency to maximize compliance. This suggests site visits, so associated labor costs would be necessary for a stall-based tax. Additionally, lot restructuring could significantly alter stall counts in a short amount of time.

Square foot method: Levying a tax based on parking square footage requires accurate measurements of land use dedicated to parking services. As-built plans for surface and structured parking can provide the needed figures for square footage. The largest cost associated with implementing a square foot tax would be the labor required to measure existing parking areas where these plans were not available. This tax method has the advantage of levying fees on difficult-to-change factors such as physical area. This implies that labor costs would be significantly smaller in comparison to a stall-based tax.

Additional Policy Considerations

Promoting development and parking goals: One factor absent in the tax revenue projections is the treatment of mixed-use apartment and commercial parcels. Because estimates of mixed-use square footage accounts for only 3 percent of total parking area, this category was deemed negligible in estimating tax revenues for this analysis. An increase in mixed-use parking would, however, support City policy objectives that include reducing parking vacancy rates and limiting oversupply (construction) of parking. This could be achieved through tax exemptions or allowances for mixed-use lots in the final formation of an NRPT or similar tax proposal.

Long-term lease parking and CPT: The current CPT does not apply where a parking stall is reserved for an individual for 30 days or more. One question facing this analysis was: Is a significant amount of untaxed revenue generated by long-term leased commercial stalls? Rough estimates suggest that only 4 percent of current commercial parking are long-term leased stalls. For this reason, leased stalls were not considered a significant factor in reducing the revenue projections.

The City's Authority to Enact an NRPT

Governments generally have two types of revenue: fees and taxes. Although no clear rule exists for determining whether a government charge is a fee or tax, courts have applied general rules to analyze revenue tools. In *Board of Overseer of Bar v. Lee*, 422 A.2d 998, 1004 (Me. 1980), the court distinguished between taxes and license fees by holding that taxes are primarily intended to raise revenue while license fees are part of a regulatory program and are intended to cover the costs of administering such a program under the government's police power. The *Strater v. Town of York*, 541 A.2d 938 (Me. 1988) court similarly explained that taxes are primarily intended to raise revenue while license fees are part of a regulatory scheme intended to cover the costs of administering such a program. The court explained that determining whether the burden imposed is a tax or fee depends on the *nature* of the charge rather than the label of "tax" or "fee". See *Hillis Homes v. Snohomish Cv.*, *supra*, 97 Wn2d at 809 (*emphasis added*). In Washington, courts determine the characterization of government charges based on custom, whether the charges are for government services or privileges and by the nature of the business transaction.

Fee

In Washington, government revenue is achieved through both fees and taxes. State and local governments collect fees to cover administration costs for services directly related to the use or benefit derived by the particular taxpayer.

Regulatory Fee

Regulatory fees provide a revenue stream for activities related to the fee while allowing the government entity to regulate specific activities. A regulatory fee's specific purpose has necessitated court interpretation. A regulatory fee's primary purpose must be regulatory in nature and fund government services related to the specific activity. In *Covell*, 127 Wn.2d at 879, the court held that whether a charge imposed by a governmental entity is a tax or a regulatory fee depended upon three factors: (1) whether the primary purpose of the government entity is to pay for desired public benefits or to regulate; (2) whether the money collected must be allocated only to the authorized regulatory purpose; and (3) whether a direct relationship exists between the fee and the service received by affected taxpayers.

Analyzing the first factor, the court explained that if the primary purpose of the charges is to raise revenue, rather than to regulate, then the charges are a tax. *Covell*, 127 Wn.2d at 879. Conversely, if the primary purpose is regulatory, then the charges are "tools of regulation" rather than taxes. *Id.* If this is the case, then the charge constitutes a regulatory fee even though the charge is not individualized per each fee payer. *Id.* If a local ordinance clearly provides that the fees are to be applied to offset the cost of provided services and makes no provision for regulation, then its primary purpose is not regulatory in nature, thus not a regulatory fee. *Id.* at 880. The *Covell* court held that the City of Seattle's utility charge was an unconstitutional tax because it broadly taxed city residents, and the city ordinance failed to restrict the revenue collected to pay for utility

purposes for the particular taxpayers. Thus, charges must satisfy the three-pronged test to constitute regulatory fees.

Special Assessment Fee

Another type of fee is the special assessment fee. This fee is limited to special districts for specific purposes. In *Covell*, 127 Wn.2d at 889, the court determined “A special assessment is a charge imposed on property owners within a limited area to help pay the cost of a local improvement which specially benefits property within that area.” The City of Seattle imposed a utility fee upon all city residents. *Id.* at 877. There were no specific improvements described in the Seattle ordinance. *Id.* The funds collected were combined with other funds to pay for street improvements all over the city. *Id.* Therefore, the court held that the street utility fee failed to meet the special assessment definition. *Id.* at 889. The utility fee was not restricted to a special district or used for a related specific purpose.

Tax

In Washington, there are three general types of taxes: (1) property, (2) income, and (3) excise.⁵ Income taxes include the federal, state, and local taxes measured by the annual income of individuals and corporations.⁶ Washington does not impose any income tax.⁷ Since Washington does not impose an income tax, only property and excise taxes are discussed generally below.

Property Tax

Property taxes consist of annual payments by owners of real and personal property.⁸ Property taxes are measured by the value of the property (e.g., *ad valorem* taxes are determined by the fair market value or a statutory assessment formula).⁹ Article VII, Section 1 of the Washington Constitution states, “all taxes shall be uniform upon the same class of property within the territorial limits of the authority levying the tax. . . . All real estate shall constitute one class...” The *Covell v. City of Seattle*, 127 Wn.2d 874, 877-78 (1994) (citing *Boeing Co. v. King County*, 75 Wn.2d 160, 165 (1969)) court held that tax uniformity requires both an equal tax rate and equality in valuing the property taxed. No variable rate may be imposed for property taxes.

Excise Tax

Excise taxes generally include every other type of tax other than property or income.¹⁰ Although there is no single definition for excise taxes, they generally refer to a specific type of transaction or privilege.¹¹ In Washington, most excise taxes are measured by the

⁵ Tax Reference Manual 2010, Washington Department of Revenue, http://dor.wa.gov/docs/reports/2010/Tax_Reference_2010/05overview.pdf (last visited December 1, 2010).

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

selling price or some other measure of sales such as gross receipts.¹² Excise taxes include selective sales taxes on specific products (cigarettes, gasoline, etc.) and the various taxes that are levied in lieu of property tax (e.g., harvested timber, leaseholds, and etc.).¹³

Some litigation has resulted from taxpayer concerns over the distinction between excise and property taxes. In *High Tide Seafoods v. State*, 106 Wn.2d 695, 699 (1986), *appeal dismissed*, the court held:

[T]he obligation to pay an excise is based upon the voluntary action of the person taxed in performing the act, enjoying the privilege or engaging in the occupation which is the subject of the excise, and the element of absolute and unavoidable demand, as in the case of a property tax, is lacking.

Distinguished from a voluntary act, a person's right to own and hold property cannot be made the subject of an excise tax, because to tax by reason of ownership of property is to tax the ownership itself. *Covell*, 127 Wn.2d at 887 (citing *Jensen v. Henneford*, 185 Wn. 209, 218 (1936)). The taxpayer must be able to choose not to pay the tax.

Distinguishing between excise and property taxes, the *Covell*, 127 Wn.2d at 890 (citing *High Tide Seafoods*, 106 Wn.2d at 699) court defined a property tax as a tax on things tangible or intangible and an excise tax as the right to use or transfer things. When examining Seattle's former street utility charge, it concluded that the charge best fits the definition of a property tax since it was an absolute and unavoidable demand against property or the ownership of property. *Id.* Liability for the charge arises from the taxpayer's status as property owner, not a right of the property owner, and not from his or her use of a city service. *Id.* It is noteworthy that the court distinguished a property tax as one that imposes a tax upon a taxpayer for a land's *existence* and an excise tax as one based upon the *use* of the land.

Retail Sales Tax

In Washington, the retail sales tax is the single largest excise tax levied in the state. RCW 82.08.020 imposes sales tax of 6.5 percent on the sales price of each retail sale. Goods and services covered by the tax include (1) tangible personal property; (2) digital goods, digital codes, and digital automated services; (3) services; (4) extended warranties to consumers; and (5) anything else...within the RCW 82.04.050 definition of retail sale. RCW 82.08.020(1). Some exceptions apply. Retail car rental services, sale of motor vehicles, among other goods and services, are subject to other tax rates. RCW 82.08.020(2)-(5).

Use Tax

A use tax is a tax imposed for the use of goods or certain services in Washington when the state sales tax has not been paid.¹⁴ Goods or certain services used in this state are

¹² *Id.*

¹³ *Id.*

subject to either sales or use tax unless specifically exempted.¹⁵ A use tax is complementary to the sales tax. Either a sales tax or a use tax applies, but not both.¹⁶ The tax applies regardless of where, or from whom, the property is purchased.

Existing Washington Law

The Revised Code of Washington (RCW) enables the type of, rate by which, and extent that local governments may impose taxes. State law authorizes local governments to impose a parking tax upon persons operating commercial parking businesses. In Seattle, city officials have enacted an ordinance to generate revenue from commercial parking businesses by taxing parking fees. The tax authority is codified as Seattle Municipal Code (SMC) 5.35. In addition, the City imposes a licensing fee upon persons operating public garages and parking lots under SMC 6.48.

Revised Code of Washington

RCW 82.80.030, a local option excise tax, enables local governments to impose a parking tax upon operators of commercial parking businesses. Local governments are defined as cities, counties (for unincorporated areas), and districts. “Commercial parking business” is defined as the “ownership, lease, operation, or management of a commercial parking lot in which fees are charged.” RCW 82.80.030(3). “Commercial parking lot” is defined as “a covered or uncovered area with stalls for the purpose of parking motor vehicles.” *Id.* To prevent multiple local governments from taxing a parking operator, state law only permits one jurisdiction, whether city, county, or district, to tax an operator. RCW 82.80.030(1). State law enables local governments to develop ordinances or resolutions to administer the tax and mandate reporting, collection, and enforcement. RCW 82.80.030(5). All parking tax proceeds must be used for transportation or transportation improvement purposes. RCW 82.80.030(6).

Local governments have two methods available for imposing parking taxes. First, RCW 82.80.030(1) broadly provides legislative authority to local government to “fix and impose a parking tax on all persons engaged in a commercial parking business within its respective jurisdiction.” Under RCW 82.80.030(4), the tax rate may be based on gross proceeds or the number of vehicle stalls available for commercial parking use. The tax rate charged must be uniform for the same class or type of commercial parking business. RCW 82.80.030(4). This method is highly restrictive because of its mandate for uniform tax rates. For example, the location of the business, whether in a central business district or low-density neighborhood, does not permit variable rates. All operators of the same class or type must be uniformly taxed.

Second, RCW 82.80.030(2) enables local government to “fix and impose a tax for the act or privilege of parking a motor vehicle in a facility operated by a commercial parking

¹⁴ Use Tax. Washington Department of Revenue. http://dor.wa.gov/Docs/Pubs/ExciseTax/RetailSales_UseTax/UseTax.pdf (last accessed on November 26, 2010).

¹⁵ *Id.*

¹⁶ *Id.*

business.” The second method requires the tax to be paid by either the parking business operator or vehicle owner, the tax must be collected by the facility operator, and the tax value is measured by the parking charge or fee per vehicle. It is noteworthy that RCW 82.80.030(2)(b) states the tax is applied to all paid parking, including those under a lease of nonresidential space. Unlike the restrictive uniform tax rate required in the first method, the second method permits a variable tax rate based on the facility’s zoning or location, parking duration, time of entry or exit, type or use of vehicle, or other reasonable factors. RCW 82.80.030(2)(e). In addition, carpools, vehicles displaying disability permit decals, and government vehicles are exempt from the tax. RCW 82.80.030(f).

State law only enables local governments to impose taxes upon operators of commercial parking businesses. The limited legislative authority does not permit local governments to tax businesses providing parking but not directly charging for it. For example, shopping mall operators who offer free parking to customers are not affected by RCW 82.80.030.

Seattle Municipal Code

Pursuant to RCW 82.80.030, the Seattle City Council passed Seattle Ordinance 122192 on August 7, 2006. The ordinance, imposing a tax upon persons operating commercial parking businesses, was codified as SMC 5.35 on July 1, 2007. Under SMC 5.35.020, the definitions for “commercial parking business” and “commercial parking lot” mirror the terms in RCW 82.80.030(3).

SMC 5.35.030 imposes a tax upon persons parking or holding a privilege to park “a motor vehicle in a commercial parking lot within the City that is operated by a commercial parking business.” The Seattle code imposes a tax only upon operators of commercial parking businesses. The tax is applicable when a person actually parks a vehicle or has a reserved privilege to do so.

Applying the taxation method in RCW 82.80.030(2), SMC 5.35.030 states “the amount of the parking tax shall be equal to the parking fee multiplied by the parking tax rate....the parking tax rate is imposed at ten percent (0.10).” The tax is directly based on the parking fee. SMC 5.35.040. To capture revenues outside of traditional commercial parking operators, the Seattle code provides discretion to the Director of Executive Administration to determine the fair market value of parking when no express fee is charged. SMC 5.35.040 states

If, in a lease of nonresidential space, a parking fee is combined with other payments, or is otherwise not separately stated, or does not result from an arm's length transaction, or does not fairly reflect the value of the act or privilege of parking, the parking fee shall be determined by the Director according to rules promulgated by the Director to establish the parking fee based on the fair market value of the act or privilege of parking.

Under SMC 5.35.050, specific exceptions from the tax are identified. The exceptions include (1) spaces related to residential use, (2) exclusively reserved stalls for 30 days or longer; (3) stadiums and exhibition centers; (4) city streets; and (5) government vehicles.¹⁷ Revenues from the parking tax must be used for transportation purposes. SMC 5.35.070.

In addition to the commercial parking tax, the City of Seattle imposes a licensing fee upon public garages and parking lots. “Public garage” and “parking lot” are defined as “any room, building, shed, enclosure, outdoor space, uncovered plot, lot, parcel, yard or other place open to the public, where motor vehicles are parked, stored or kept, and a charge is made for such parking, storing, or keeping.” SMC 6.48.010. The tax is only imposed upon operators charging parking fees.

Under SMC 6.48.020, public garages and parking lots must obtain a license at a fixed rate of \$6 per year for every 1,000 square feet of floor or ground space. The Seattle code sets a uniform rate for all public garages and parking lots.

Conclusion

Alternative Legislation Required to Provide Local Government with Clear and Consistent Tax Authority to Support Broader Planning Goals

Existing Washington law provides a basic framework for the City of Seattle to administer an alternative to the taxation method currently used. However, RCW 82.80.030’s enabling language provides inadequate authority to local governments in three key areas: (1) limited authority to only tax specific businesses, namely persons operating a commercial parking business; (2) limited options under Subsection 1 to tax based on gross proceeds or number of vehicle stalls; and (3) restriction under Subsection 4 requiring the tax rate charged to be uniform for the same class or type of commercial parking business. These three areas need to be addressed by amending state law in order for local governments to have the tax authority needed to accomplish their parking tax priorities.

First, the local government authority provided in RCW 82.80.030 prevents the City of Seattle from broadening its tax base to include all nonresidential constituencies to better manage citywide transportation infrastructure, as referenced in Seattle Ordinance 122192. Per the requirements of RCW 82.80.030 and case law, as long as the parking tax is collected from users for purposes related to the user’s activity, the law would likely survive judicial scrutiny. Therefore, state law may be amended to broaden the tax authority to include all non-residential parking spaces.

Second, RCW 82.80.030(4) limits the options for local government to calculate the tax value under Subsection 1. The gross value of proceeds or per stall measurement

¹⁷ The parking tax exception for stadiums and exhibition centers is limited to facilities defined within RCW 36.38.040, those under the oversight of public stadium authorities. These facilities may be taxed by their respective public stadium authorities under RCW 36.102.

precludes any calculation based on total surface area. There appears to be no legal basis for calculating tax on the basis of per stall or total gross proceeds versus a parking facility's total square footage. Case law provides no precedent for limiting the calculation methods to determining a tax value.

Third, local governments have different restrictions on whether a variable tax rate may be imposed. RCW 82.80.030(4) requires local governments to apply a uniform tax rate to the gross proceeds-based method and the number of stalls-based method in RCW 82.80.030(1). In contrast, local governments may impose a variable rate if the tax is a parking fee-based method under RCW 82.80.030(2). A review of case law found that the only basis for distinguishing the tax calculation methods was to preemptively avoid potential constitutionality issues regarding property tax restrictions. If courts interpret the gross proceeds- or stalls-based parking tax to constitute a property tax, a variable tax rate would be held unconstitutional. However, this risk can be minimized. Drafting legislation clearly applying excise tax principles would limit constitutionality claims. Remedying this inconsistency would enable local governments to calculate tax on the basis of reasonable factors, as stated in RCW 82.80.030(2)(e).

Amending state law to address these three key areas would enable local governments to generate revenue from parking users to pay for transportation-related services and improvements. It would also apply consistent standards between the two tax calculation methods under RCW 82.80.030. To determine which type of revenue is most appropriate for meeting the three key areas of concern, fees and all three types of taxes (property, income, and excise) must be analyzed.

Because of the restrictive nature of fees, requiring that the revenue be directly tied to the government service provided, they are not preferable. Proposing a regulatory fee would likely raise legal issues. Because the parking tax's primary purpose is not regulatory in nature, a regulatory fee would likely fail judicial scrutiny. Similarly, a special assessment fee would likely fail judicial scrutiny because the tax boundary is not limited to an area smaller than city limits. To the contrary, it would apply to the entire city.

A property tax would not allow the City of Seattle to impose a variable tax rate based on density, location, or other factors. To satisfy Article VII, Section 1 of the Washington Constitution, all taxes must be uniformly applied upon the same class of property. The constitutional requirement prohibits the state legislature from granting authority to local governments to impose a variable rate upon property taxes. Therefore, property tax is not a suitable solution. Income tax is also not a feasible solution, since Washington does not have an income-based tax model.

The final option is an excise tax, the same type as RCW 82.80.030. A retail sales tax would not be suitable for addressing the three key areas of concern because the amended language would depend upon the use of real property and not sales transactions. Furthermore, a use tax would not be appropriate because a sales tax for parking already exists. State law does not permit taxpayers to pay both a sales and use tax for services or goods. The existing local option excise tax appears to be the most suitable tax method. Amending RCW 82.80.030 by incorporating all three key areas would broaden local government tax authority.

However, amending RCW 82.80.030 to permit local governments to calculate tax rates on the basis of real property size creates a risk for future litigation. Since the

proposed parking tax amendments are dependent upon real property, taxpayers might raise constitutionality issues claiming that the amended law was a property tax. If a property tax classification argument was successful, then the variable rate would violate the state constitution's uniform tax rate requirement. However, an argument could be made that the amended law was based on *use* of the stall or space for parking, rather than based on the real property's existence alone. It is unclear how the court would interpret an amended law.

Proposed Draft Legislation

To address inadequate local government authority issues in RCW 82.80.030, the following amendments to the existing local option excise tax are recommended:

RCW 82.80.030. ~~Commercial~~ Non-Residential Parking Tax.

(1) Subject to the conditions of this section, the legislative authority of a county, city, or district may fix and impose a parking tax on all **privately owned, nonresidential, off-street parking, except parking areas used for retail stock or display by operators of businesses engaged in the retail sale or rental of motor vehicles,** ~~persons engaged in a commercial parking business~~ within its respective jurisdiction. A city or county may impose the tax only to the extent that it has not been imposed by the district, and a district may impose the tax only to the extent that it has not been imposed by a city or county. The jurisdiction of a county, for purposes of this section, includes only the unincorporated area of the county. The jurisdiction of a city or district includes only the area within its boundaries.

(2) In lieu of the tax in subsection (1) of this section, a city, a county in its unincorporated area, or a district may fix and impose a tax for the act or privilege of parking a motor vehicle in a facility operated by a commercial parking business.

The city, county, or district may provide that:

- (a) The tax is paid by the operator or owner of the motor vehicle;
- (b) The tax applies to all parking for which a fee is paid, whether paid or leased, including parking supplied with a lease of nonresidential space;
- (c) The tax is collected by the operator of the facility and remitted to the city, county, or district;
- (d) The tax is a fee per vehicle or is measured by the parking charge;
- (e) The tax rate varies with zoning or location of the facility, the duration of the parking, the time of entry or exit, the type or use of the

vehicle, or other reasonable factors; and

(f) Tax exempt carpools, vehicles with handicapped decals, or government vehicles are exempt from the tax.

(3) "Commercial parking business" as used in this section, means the ownership, lease, operation, or management of a commercial parking lot in which fees are charged. "Commercial parking lot" means a covered or uncovered area with stalls for the purpose of parking motor vehicles.

(4) The rate of the tax under subsection (1) of this section may be based ~~either~~ upon gross proceeds, **total surface area available for parking use**, or the number of vehicle stalls available for ~~commercial~~ parking use. The **tax rate may vary with zoning or location of the facility, the duration of the parking, the time of entry or exit, the type or use of the vehicle, or other reasonable factors** ~~rates charged must be uniform for the same class or type of commercial parking business.~~

(5) The tax imposed under subsection (1) of this section may be exempted from specific properties if a designated official of the city, county, or special district determines that the parking facility is not used for parking purposes.

~~(5)~~**(6)** The county, city, or district levying the tax provided for in subsection (1) or (2) of this section may provide for its payment on a monthly, quarterly, or annual basis. Each local government may develop by ordinance or resolution rules for administering the tax, including provisions for reporting by ~~commercial~~ parking **providers** ~~businesses~~, collection, and enforcement.

~~(6)~~**(7)** The proceeds of the ~~commercial~~ parking tax fixed and imposed by a city or county under subsection (1) or (2) of this section shall be used for transportation purposes in accordance with RCW 82.80.070 or for transportation improvements in accordance with chapter 36.73 RCW. The proceeds of the parking tax imposed by a district must be used as provided in chapter 36.120 RCW.

Conclusions

Although few taxes are popular, some are better than others in terms of economic efficiency, consistency with strategic planning objectives, and equity.

A commercial parking tax (a special tax on parking rental transactions) is relatively easy to implement but tends to contradict other planning objectives. It discourages pricing of parking, encourages sprawl, and its cost burden tends to be concentrated in a few areas, such as major commercial centers, campuses, and hospitals. Seattle’s current 10 percent commercial parking tax has these effects. In addition, since it applies to campus parking, it has reduced the amount of University of Washington parking revenue available to subsidize student, staff, and faculty access to public transit through the U-PASS program.

A non-residential parking tax is more challenging to implement because it requires an inventory of qualifying parking facilities, but it tends to support strategic planning objectives by encouraging pricing of parking, which encourages reductions in vehicle traffic and encourages property owners to reduce inefficiently used space. As a result, it encourages more compact, accessible, multi-modal land-use patterns and reduces sprawl. Its cost burden is more evenly distributed rather than concentrating financial burdens in downtown areas and large educational and medical centers.

In regard to revenue, the NRPT can generate the same overall revenue as the current CPT for the City of Seattle, and it can accomplish this at a per-square-foot rate that is less than half that of the current tax.

In regard to impacts, the NRPT would encourage more efficient use of private parking spaces, freeing more space for compact development consistent with an urban village strategy. However, it would not send transparent price signals to users, as unpaid parking would likely still remain “free” to users. The NRPT would be paid for, instead, by incremental increases in the cost of goods and services.

In regard to implementation, existing state law does not authorize cities or counties to impose an NRPT. However minor amendments to the wording of existing legislation—proposed in this report—would enable the City of Seattle to utilize a non-residential parking tax.

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Appendices

Appendix 1: Revised Code of Washington Enabling Local Government to Impose a Commercial Parking Tax

RCW 82.80.030. Commercial Parking Tax.

(1) Subject to the conditions of this section, the legislative authority of a county, city, or district may fix and impose a parking tax on all persons engaged in a commercial parking business within its respective jurisdiction. A city or county may impose the tax only to the extent that it has not been imposed by the district, and a district may impose the tax only to the extent that it has not been imposed by a city or county. The jurisdiction of a county, for purposes of this section, includes only the unincorporated area of the county. The jurisdiction of a city or district includes only the area within its boundaries.

(2) In lieu of the tax in subsection (1) of this section, a city, a county in its unincorporated area, or a district may fix and impose a tax for the act or privilege of parking a motor vehicle in a facility operated by a commercial parking business.

The city, county, or district may provide that:

(a) The tax is paid by the operator or owner of the motor vehicle;

(b) The tax applies to all parking for which a fee is paid, whether paid or leased, including parking supplied with a lease of nonresidential space;

(c) The tax is collected by the operator of the facility and remitted to the city, county, or district;

(d) The tax is a fee per vehicle or is measured by the parking charge;

(e) The tax rate varies with zoning or location of the facility, the duration of the parking, the time of entry or exit, the type or use of the vehicle, or other reasonable factors; and

(f) Tax exempt carpools, vehicles with handicapped decals, or government vehicles are exempt from the tax.

(3) "Commercial parking business" as used in this section, means the ownership, lease, operation, or management of a commercial parking lot in which fees are charged. "Commercial parking lot" means a covered or

uncovered area with stalls for the purpose of parking motor vehicles.

(4) The rate of the tax under subsection (1) of this section may be based either upon gross proceeds or the number of vehicle stalls available for commercial parking use. The rates charged must be uniform for the same class or type of commercial parking business.

(5) The county, city, or district levying the tax provided for in subsection (1) or (2) of this section may provide for its payment on a monthly, quarterly, or annual basis. Each local government may develop by ordinance or resolution rules for administering the tax, including provisions for reporting by commercial parking businesses, collection, and enforcement.

(6) The proceeds of the commercial parking tax fixed and imposed by a city or county under subsection (1) or (2) of this section shall be used for transportation purposes in accordance with RCW 82.80.070 or for transportation improvements in accordance with chapter 36.73 RCW. The proceeds of the parking tax imposed by a district must be used as provided in chapter 36.120 RCW.

Appendix 2: Seattle Municipal Code Imposing a Commercial Parking Tax

SMC 5.35.010. Administrative Provisions.

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

SMC 5.35.020. Definitions.

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

- A. "Commercial parking business" means the ownership, lease, operation, or management of a commercial parking lot in which fees are charged for the act or privilege of parking motor vehicles.
- B. "Commercial parking lot" means a covered or uncovered area with stall used for the purpose of parking motor vehicles for a fee.
- C. "Parking tax" means the commercial parking tax imposed by this chapter.

SMC 5.35.030. Parking Tax Imposed.

- A. Pursuant to RCW 82.80.030, there is imposed on every person a tax for the act or privilege of parking a motor vehicle in a commercial parking lot within the City that is operated by a commercial parking business. The privilege of parking includes the right to park, whether or not the right is exercised.
- B. The amount of the parking tax shall be equal to the parking fee multiplied by the parking tax rate. Effective July 1, 2007, through June 30, 2008, the parking tax rate is imposed at five percent (0.05). Effective July 1, 2008, through June 30, 2009, the parking tax rate is imposed at seven and one half percent (0.075). Effective July 1, 2009, the parking tax rate is imposed at ten percent (0.10).

SMC 5.35.040. Measure of Tax: Parking Fee.

- A. The measure of the parking tax is the parking fee. Parking fee means the fee paid or due for the act or privilege of parking a motor vehicle in a commercial parking lot.
- B. If, in a lease of nonresidential space, a parking fee is combined with other payments, or is otherwise not separately stated, or does not result from an arm's length transaction, or does not fairly reflect the value of the act or privilege of parking, the parking fee shall

be determined by the Director according to rules promulgated by the Director to establish the parking fee based on the fair market value of the act or privilege of parking.

C. It shall be conclusively presumed that the posted parking prices do not include the parking tax unless all the following conditions are met:

1. The fee is advertised as including the tax or that the commercial parking business is paying the tax;
2. The words "tax included" are stated immediately following the advertised or posted prices in print size at least half as large as the advertised or posted prices print size; and
3. All advertised or posted parking prices and the words "tax included" are stated in the same medium, whether oral or visual, and if oral, in substantially the same inflection and volume. If these conditions are satisfied, then price lists, reader boards, and other price information mediums need not show separately the parking fee and the actual amount of commercial parking tax being collected.

SMC 5.35.050. Exemptions from the Parking Tax.

The following are exempt from the parking tax:

- A. Parking by a person in a stall reserved exclusively for that person for a period of 30 days or longer.
- B. Parking of a motor vehicle owned or controlled by a natural person in a stall provided with that person's residence.
- C. Parking at stadiums and exhibition centers which the City is precluded from taxing pursuant to RCW 36.38.040.
- D. Parking on City of Seattle streets.
- E. Parking of vehicles under federal government contracts that is exempt from the retail sales tax.
- F. Parking charges directly billed to, and paid by, federal, state, or local government.

SMC 5.35.060. Collection and Remittance of Tax.

A commercial parking business or person acting on its behalf shall collect the amount of the parking tax from the person paying the parking fee at the time payment is made. The parking tax shall be stated separately from the parking fee on all instruments evidencing the parking fee. Except when all requirements of section 5.35.040 B are satisfied, it shall be conclusively presumed that the parking fee does not include the parking tax. The presumption is not overcome by any oral or written agreement between the parties.

The person receiving payment of the parking fee shall remit the parking tax to the Director according to the provisions contained in SMC Chapter 5.55. The parking tax shall be deemed held in trust by the person required to collect the same until remitted to the Director. Any person who fails to collect the parking tax, or who collects the parking tax but fails to remit the parking tax to the Director, shall be liable to the City for the amount of such tax. Such person shall, unless the remittance is made as required in this section, be guilty of a violation of this chapter whether such failure be the result of the person's own act or the result of acts or conditions beyond its control.

SMC 5.35.070. Use of Revenues.

The proceeds of the tax imposed herein shall be used for transportation purposes in accordance with RCW 82.80.070. None of the proceeds of the tax imposed herein shall be used to fund the major repair or replacement, including but not limited to replacement with a waterfront tunnel, of the Alaskan Way Viaduct or the seawall located to the west of Alaskan Way, unless appropriated for those purposes by ordinance. To the extent permitted by applicable law the City may issue bonds, notes, or other evidences of indebtedness payable wholly or in part from the parking tax and may pledge and may apply such tax to the payment of principal of, interest on, and premium (if any) on such bonds, notes, or other evidences of indebtedness and to the payment of costs associated with them.

SMC 5.35.080. Receipts to Transportation Fund.

All receipts from the parking tax shall be placed in and segregated within the Transportation Fund. These receipts may be temporarily deposited or invested in such manner as may be lawful for the investment of City money and interest and other earnings shall be deposited in the Transportation Fund.

Appendix 3: Seattle Ordinance 122192 Enabling City Officials to Administer a Commercial Parking Tax System

AN ORDINANCE relating to taxation; imposing a commercial parking tax; adding a new Chapter 5.35 to Title 5 of the Seattle Municipal Code; and amending SMC sections 5.30.010, 5.55.010, 5.55.040 A, 5.55.060 A, 5.55.150 E, 5.55.165, 5.55.220, 5.55.230 A, 5.55.260, 3.02.125 A, 6.48.020, and 5.45.090 BB in connection therewith.

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

WHEREAS, the City is responsible for more than 1,500 lane-miles of arterial streets, 150 bridges, 22 miles of retaining walls, 480 stairways, 1,000 signalized intersections, 120,000 signs, 2,000 miles of sidewalks, and 30,000 street trees, representing an economic asset of more than \$8 billion; and WHEREAS, the majority of Seattle's bridges were built to last 60 years, with 55 years being the average age of the bridges, and with 46% in poor or fair condition; and

WHEREAS, eight of the City's bridges have weight restrictions because they no longer meet structural standards, creating safety concerns for users and limited route choices for freight haulers and buses; and

WHEREAS, according to national standards, 29 percent of the City's arterial streets are in either poor or fair condition; and

WHEREAS, two years ago, the backlog of maintenance work was estimated to be \$500 million and has since become larger; and

WHEREAS, the Washington State Supreme Court in 1995 declared the City's residential street utility charge unconstitutional, reducing City revenue for transportation projects by \$13 million per year; and

WHEREAS, voters statewide approved Initiative 776 in 2002, which eliminated the Vehicle License Fee that provided \$5 million per year to the City for transportation purposes; and

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

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

WHEREAS, in 2005, the City adopted Resolution 30790 approving the Transportation Strategic Plan with key themes of improving safety, preserving and maintaining transportation infrastructure, and providing mobility and access through transportation choices; and

WHEREAS, the Alaskan Way Viaduct is scheduled to be closed to traffic within the next five years, and closing it will put an added stress on the various alternative routes into and through the city; and

WHEREAS, a Citizens Advisory Panel has reviewed the funding required to address the identified maintenance backlog and recommended a variety of additional improvements to provide a more efficient and safer flow of pedestrians, bicycles, vehicles, transit services, and freight movement within and throughout Seattle; and

WHEREAS, in January and May of 2006, the City sponsored five public information meetings with roundtable discussion groups in order to garner public input on transportation issues; and

WHEREAS, there are numerous commuters who work in the city and use Seattle's transportation infrastructure; and

WHEREAS, the City has developed a funding proposal to address the deteriorating condition of Seattle's transportation infrastructure and provide targeted system enhancements, which combines revenues generated from property taxes, a commercial parking tax, and a business transportation tax; and

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

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

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

WHEREAS, the City wishes to impose a commercial parking tax as authorized by RCW 82.80.030 to provide an equitable means of generating revenue to support the City's transportation system, and to reduce the existing Public Garage and Parking Lot License fee that is currently imposed by SMC Chapter 6.48; NOW, THEREFORE, BE IT ORDAINED BY THE

CITY OF SEATTLE AS FOLLOWS:

Section 1. Effective July 1, 2007, a new Chapter 5.35...(SMC 5.35 omitted)

Appendix 4: Revised Code of Washington Defining Use of Parking Tax Revenues

RCW 82.80.070. Use of Revenues.

(1) The proceeds collected pursuant to the exercise of the local option authority of RCW 82.80.010, 82.80.030, and 82.80.050 (hereafter called "local option transportation revenues") shall be used for transportation purposes only, including but not limited to the following: The operation and preservation of roads, streets, and other transportation improvements; new construction, reconstruction, and expansion of city streets, county roads, and state highways and other transportation improvements; development and implementation of public transportation and high capacity transit improvements and programs; and planning, design, and acquisition of right-of-way and sites for such transportation purposes. The proceeds collected from excise taxes on the sale, distribution, or use of motor vehicle fuel and special fuel under RCW 82.80.010 shall be used exclusively for "highway purposes" as that term is construed in Article II, section 40 of the state Constitution.

(2) The local option transportation revenues shall be expended for transportation uses consistent with the adopted transportation and land use plans of the jurisdiction expending the funds and consistent with any applicable and adopted regional transportation plan for metropolitan planning areas.

(3) Each local government with a population greater than eight thousand that levies or expends local option transportation funds, is also required to develop and adopt a specific transportation program that contains the following elements:

(a) The program shall identify the geographic boundaries of the entire area or areas within which local option transportation revenues will be levied and expended.

(b) The program shall be based on an adopted transportation plan for the geographic areas covered and shall identify the proposed operation and construction of transportation improvements and services in the designated plan area intended to be funded in whole or in part by local option transportation revenues and shall identify the annual costs applicable to the program.

(c) The program shall indicate how the local transportation plan is coordinated with applicable transportation plans for the region and for adjacent jurisdictions.

(d) The program shall include at least a six-year funding plan, updated annually, identifying the specific public and private sources and amounts of revenue necessary to fund the program. The program shall include a proposed schedule for construction of projects and expenditure of revenues. The funding plan shall consider the additional local tax revenue estimated to be generated by new development within the plan area if all or a

portion of the additional revenue is proposed to be earmarked as future appropriations for transportation improvements in the program.

(4) Local governments with a population greater than eight thousand exercising the authority for local option transportation funds shall periodically review and update their transportation program to ensure that it is consistent with applicable local and regional transportation and land use plans and within the means of estimated public and private revenue available.

(5) In the case of expenditure for new or expanded transportation facilities, improvements, and services, priorities in the use of local option transportation revenues shall be identified in the transportation program and expenditures shall be made based upon the following criteria, which are stated in descending order of weight to be attributed:

(a) First, the project serves a multijurisdictional function;

(b) Second, it is necessitated by existing or reasonably foreseeable congestion;

(c) Third, it has the greatest person-carrying capacity;

(d) Fourth, it is partially funded by other government funds, such as from the state transportation improvement board, or by private sector contributions, such as those from the local transportation act, chapter 39.92 RCW; and

(e) Fifth, it meets such other criteria as the local government determines is appropriate.

(6) It is the intent of the legislature that as a condition of levying, receiving, and expending local option transportation revenues, no local government agency use the revenues to replace, divert, or loan any revenues currently being used for transportation purposes to nontransportation purposes.

(7) Local governments are encouraged to enter into inter-local agreements to jointly develop and adopt with other local governments the transportation programs required by this section for the purpose of accomplishing regional transportation planning and development.

(8) Local governments may use all or a part of the local option transportation revenues for the amortization of local government general obligation and revenue bonds issued for transportation purposes consistent with the requirements of this section.

(9) Subsections (1) through (8) of this section do not apply to a regional transportation investment district imposing a tax or fee under the local option authority of this chapter. Proceeds collected under the exercise of local option authority under this chapter by a district must be used in accordance with chapter 36.120 RCW.