

**MEMORANDUM**  
**For Meeting of January 27, 2009**

TO: Mayor and Councilmembers  
FROM: Steve Worthington, City Manager  
SUBJECT: **Ordinance No. 1693 - Excise Tax on Loading Dock Doors**

**REPORT IN BRIEF:** Following the public hearing, Council may consider approving Ordinance 1693. Or the Council may defer the ordinance.

**BACKGROUND:** Please see the hearing packet on this subject for details.

**DISCUSSION:** Discuss the proposed ordinance, amend or vote the issue as presented.

**ALTERNATIVE COURSES OF ACTION:**

1. Vote for passage of Ordinance 1693
2. Move to defer Ordinance 1693

**RECOMMENDATIONS:** Approve Ordinance 1693.

**SUGGESTED MOTION:** I move for approval of Ordinance 1693 which establishes an excise tax on active truck loading doors to help pay for the repair of truck routes in Fife.

  
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Approved for Agenda: Steve Worthington,  
City Manager

CITY OF FIFE, WASHINGTON

ORDINANCE NO. 1693

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIFE, WASHINGTON, CREATING A NEW CHAPTER 5.04 OF THE FIFE MUNICIPAL CODE, IMPOSING AN EXCISE ON THE OPERATION OF LOADING DOCK DOORS WITHIN THE CITY, FOR THE PURPOSE OF RAISING REVENUE TO IMPROVE FREIGHT MOBILITY; AND PROVIDING FOR MATTERS PROPERLY RELATED THERETO

WHEREAS, the City Council finds that:

- (a) The strength of Fife's economic base is highly dependent on the heavy vehicles that travel along its arterials;
- (b) The condition and durability of these arterials must be maintained;
- (c) The Fife community wants to be known as a good location for this branch of commerce;
- (d) Fife's ability to recruit and retain these businesses would be harmed if its arterial system cannot be relied upon; and,
- (e) Funding for this program will have to come from mostly local sources, including increases in some taxes, creation of some new funding sources and allocation of General Fund monies currently dedicated to other, unspecified uses; and

WHEREAS, in order to help the City contend with the costs to the City and its taxpayers caused by significant truck traffic from warehousing businesses, it is appropriate for the City Council to impose an excise that compensates the City for its investment in warehousing infrastructure; and

WHEREAS, Section 35A.82.020 of the Revised Code of Washington (RCW) authorizes the city councils of code city to impose excises for regulation or revenue applicable to various kinds of business.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FIFE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. **NEW CHAPTER CREATED TO CITY CODE.** That a new Chapter 5.04 of the Fife Municipal Code is created to read as follows:

**CHAPTER 5.04**  
**EXCISE ON OPERATION OF LOADING DOCK DOORS**

Sections:

5.04.010	Findings.
5.04.020	Chapter Purpose and Scope.
5.04.030	Definitions.
5.04.040	Loading Dock Door License Required.
5.04.050	Loading Dock Door License Excise.
5.04.060	Use of Revenues.
5.04.070	Penalties and Remedies for Violation.
5.04.080	Expiration of Chapter.

**5.04.010 Findings.**

A. The City Council finds that certain City freight corridors are in critical need of repair, restoration, and enhancement. The City's economy, the ability to move goods to market, and the overall mobility and safety of the citizens of the City rely on these key links in the transportation system.

B. The City Council finds that the shipping of freight over certain City streets causes extraordinary wear and tear on those routes within the city. Many studies have demonstrated that:

1. Freight truck traffic causes considerably more damage to streets than passenger vehicles – some show up to 60% of street damage is a direct result of freight truck traffic; and

2. Depending on the size of the freight truck, the impact of freight vehicles on street surfaces is 29,000 to 160,000 times more damaging than a passenger vehicle.

C. The City Council finds that the significant impacts to certain freight corridors relating directly to business operations containing loading dock doors far outpaces the potential for recovery of those costs through current taxing mechanisms of such operations.

D. Accordingly, the City Council concludes that it is in the best interests of the City to impose a business license excise for the purpose of raising revenue, as authorized by RCW 35A.82.020, upon businesses engaged in the business of operating a loading dock door as a means to assist in addressing the need to maintain and improve the City's street infrastructure and to enhance freight and passenger mobility within the City.

**5.04.020 Chapter purpose and scope.** This Chapter provides for an excise for regulation and revenue under RCW 35A.82.020, which shall be referred to as a

licensing excise or “excise.” This Chapter does not repeal, abrogate, annul or in any way impair or interfere with the existing provision of other laws or ordinances.

**5.04.030 Definitions.** In addition to the definitions provided in Fife Municipal Code Section 5.10.010, the following words shall have the following meanings unless the context clearly requires otherwise.

A. “Commercial vehicle” means every device designed or regularly used for carrying freight that is capable of being moved upon a public highway and in, upon, or by which any property is or may be transported or drawn upon a public highway, except devices moved by human or animal power or used exclusively upon stationary rail or tracks.

B. “Freight” means goods transported by a person engaged in transporting goods for hire.

C. “Freight Mobility Purposes” means the construction, reconstruction, maintenance, operation, preservation or expansion, of streets, arterials, roads, highways and related transportation improvements within the City or identified in any interlocal agreement, including but not limited to planning, design and acquisition of rights-of-way and sites for such purposes.

D. “Loading dock” means an elevated architectural fixture or platform designed to permit the transfer of freight to or from a commercial vehicle.

E. “Loading dock door” means a movable structure accessing and adjacent to a loading dock. For the purposes of this Chapter, the term “loading dock door” shall not include any door that has been clearly posted and marked as closed, locked and not for access, in conformity with the requirements of Section 504 of the International Fire Code, which posting and marking must be visible from both the inside and outside of the building on which the door is located.

**5.04.040 Loading Dock Door License Required**

A. In addition to any other required licenses, each person engaged in the business of operating a loading dock door within the City shall apply for a license under this ordinance and shall pay the license excise provided for in Section 5.04.050 of this Chapter.

B. Upon payment of the appropriate excise amount, the applicant shall be issued a loading dock door license which the applicant shall post prominently outside each loading dock door that it operates within the City.

C. Each loading dock door license shall be renewed annually and such renewal shall coincide with the renewal date of the business’ annual City business license.

D. The City shall, in a form and manner prescribed by the City, update the business license application to accommodate this license excise.

E. Federal, tribal, state and local governmental entities and entities exempt from licensing requirements under Chapter 5.01.050 of the City Code shall be exempt from the requirements of this Chapter.

**5.04.050 Loading Dock Door License Excise**

A. In addition to any other taxes or fees that may be imposed from time to time, the City hereby imposes a business license excise for the privilege of operating a loading dock door within the City.

B. The excise provided in this section shall be paid by the operators of businesses licensed pursuant to this Chapter, the amount of the excise set forth herein for each loading dock door that is available for operation by the business during the succeeding twelve month period. However, each business operating loading dock doors within the City shall, upon application, receive two loading dock door certificates at no charge.

C. The initial rate of the excise collected under this section is hereby set at One Hundred Dollars (\$100.00) per year per loading dock door.

D. The rate of the excise collected under this section shall be revised periodically and shall be levied at a rate that, when fully collected on all loading dock doors within the City, will not exceed 50% of the City's anticipated annual expenditures for freight mobility purposes.

**5.04.060 Use Of Revenues.** The proceeds of the business license excise imposed under this ordinance shall be deposited into the Freight Mobility Fund, which is created within the office of the City Finance Director. Amounts in the Freight Mobility Fund shall be used solely for freight mobility purposes. To the extent possible, these freight mobility purposes should be consistent with the adopted transportation and land use plans of the City or any applicable and adopted regional transportation plan for the metropolitan planning area.

**5.04.070 Penalties and Remedies for Violation.**

A. Civil Penalties. A violation of the provisions of Sections 5.04.040(A), 5.04.040(C) and 5.04.050(B) of this Chapter shall be class 1 civil infractions, punishable by a maximum penalty of \$250.00, not including statutory assessments. Each day of such violation constitutes a separate infraction under this Chapter.

B. Additional Relief. The city may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of the applicable provisions of this Chapter when penalties provided herein are inadequate to effect compliance.

C. Other Remedies. Nothing in this Chapter shall be construed as limiting any judicial remedies that the city may have, at law or in equity, for enforcement of this Chapter.

**5.04.080 Expiration of Chapter.**

This Chapter and its provisions shall automatically expire and be of no further effect or validity upon the event that an equivalent state or federal funding source is provided to the City that is directed to and earmarked for the City's freight mobility purposes to which the revenue derived from this excise is to be used pursuant to Section 5.04.060 of the Chapter.

Section 2. Captions used in this act are not any part of the law.

Section 3. Each and every provision of this Ordinance shall be deemed severable. In the event that any portion of this Ordinance is determined by final order of a court of competent jurisdiction to be void or unenforceable, such determination shall not affect the validity of the remaining provisions thereof provided the intent of this Ordinance can still be furthered without the invalid provision.

Section 4. This Ordinance shall be in full force and effect five (5) days after publication as required by law. A summary of this Ordinance may be published in lieu of the entire Ordinance, as authorized by State law.

Introduced the \_\_\_\_ day of \_\_\_\_\_ 2009.

Passed by the City Council on the \_\_\_\_ day of \_\_\_\_\_ 2009.

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Steve Worthington, City Manager

ATTEST:

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Steve Marcotte, City Clerk/Treasurer

APPROVED AS TO FORM:

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Loren D. Combs, City Attorney

Published: \_\_\_\_\_  
Effective Date: \_\_\_\_\_, 2009