

1 generated by the tax is likely to be lost over time due to market erosion,
2 changing technology and other factors;

3 **WHEREAS**, the City needs the revenue generated by the tax to
4 continue to provide essential City services, such as public safety services,
5 street maintenance and park and recreation services;

6 **WHEREAS**, the City desires to treat users of communications
7 services in a uniform and equitable manner, regardless of the means of
8 transmission or technology used, so that users of communications services
9 transmitted by traditional technologies (such as land lines) do not bear a
10 greater tax burden than users of communications services transmitted via
11 newly developed technologies;
12

13 **WHEREAS**, the tax contains exemptions for low income senior
14 citizens and persons with disabilities and the City desires to continue those
15 exemptions.
16

17 **NOW, THEREFORE**, the City Council of the City of Culver City, California,
18 **DOES HEREBY ORDAIN** as follows:

19 **Section 1.** Section 3.08.205 of the Culver City Municipal Code is hereby
20 amended to read as follows:

21 "§ 3.08.205 DEFINITIONS.
22

23 Except where the context otherwise requires, the definitions given in this
24 Section govern the construction of this Subchapter.

25 A. 'Ancillary Telecommunications Services' means services that are
26 associated with or incidental to the provision, use or enjoyment of
27

1 Telecommunications Services, including but not limited to the following services:

2 (1) 'Conference Bridging Service' means an ancillary service that
3 links two or more participants of an audio or video conference call and may
4 include the provision of a telephone number. Conference Bridging Service
5 does not include the telecommunications services used to reach the
6 conference bridge.

7 (2) 'Detailed Telecommunications Billing Service' means an
8 ancillary service of separately stating information pertaining to individual
9 calls on a customer's billing statement.
10

11 (3) 'Directory Assistance' means an ancillary service of providing
12 telephone number information, and/or address information.

13 (4) 'Vertical Service' means an ancillary service that is offered in
14 connection with one or more telecommunications services, which offers
15 advanced calling features that allow customers to identify callers and to
16 manage multiple calls and call connections, including Conference Bridging
17 Services.
18

19 (5) 'Voicemail Service' means an ancillary service that enables
20 the customer to store, send or receive recorded messages. Voicemail
21 service does not include any vertical services that the customer may be
22 required to have in order to utilize the voicemail service.
23

24 B. 'Billing Address' means the mailing address of the Service User
25 where the Service Supplier submits invoices or bills for payment by the customer.

26 C. 'City' means the City of Culver City.

27 D. 'Communication Services' means Telecommunications Services and
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1 Video Services.

2 E. 'Exempt Wholesale Generator' has the same meaning as set forth in
3 the Federal Power Act (15 U.S.C. Section 79z-5a) and regulations thereunder.

4 F. 'Gas' means natural or manufactured gas or any alternate
5 hydrocarbon fuel, which may be substituted therefor.

6 G. 'Month' means calendar month.

7 H. 'Non-Utility Service Supplier' means the following:

8 (1) A Service Supplier, other than a provider of electric
9 distribution services to all or a significant portion of the City, which
10 generates electricity for sale to others, and shall include but is not
11 limited to any publicly-owned electric utility, investor-owned utility,
12 cogenerator, Exempt Wholesale Generator, municipal utility district,
13 federal power marketing agency, electric rural cooperative, or other
14 supplier or seller of electricity.
15

16 (2) An electric service provider (ESP), electricity broker,
17 marketer, aggregator, pool, operator, or other electricity supplier
18 other than a provider of electric distribution services to all or a
19 significant portion of the City, which sells or supplies electricity or
20 supplemental services to electricity users within the City; and
21

22 (3) A Gas Service Supplier, aggregator, marketer or
23 broker, other than a provider of Gas distribution services to all or a
24 significant portion of the City, which sells or supplies Gas or
25 supplemental services to Gas users within the City.
26

27 I. 'Person' means, without limitation, any domestic, non-profit or
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1 foreign corporation, firm, association, syndicate, joint-stock company,
2 partnership of any kind, joint venture, club, trust, limited liability company,
3 business or common-law trust, society, any natural individual, cooperative,
4 receiver, trustee, guardian or other representative appointed by order of
5 any court, or any municipal corporation (other than the City).

6 J. 'Private Communications Services' means any dedicated
7 Communications Services that entitle the user to the exclusive or priority
8 use of communications channels.

9
10 K. 'Service Supplier' means any entity or Person that provides
11 communication, electric, Gas, or water service to a user of such services
12 within the City. The term shall include an entity or Person required to
13 collect (or self-collect under § 3.08.222 of this Subchapter) and remit a tax
14 imposed by this Subchapter, including its billing agent in the case of Gas,
15 electric, water and Video Service Suppliers.

16
17 L. 'Service User' means any Person required to pay a tax
18 imposed by this Subchapter.

19 M. 'Tax Administrator' means the Treasurer of the City of Culver
20 City, or his or her authorized representative.

21 N. 'Telecommunications Services' means the transmission,
22 conveyance, or routing of voice, data, audio, video, or any other
23 information or signals to a point, or between or among points, whatever the
24 technology used, whether or not such information is transmitted through
25 interconnected service with the public switched network, or through fiber
26 optic, coaxial cable, power line transmission, broadband, digital subscriber
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1 line or other wireless transmission. The term “telecommunications
2 services” includes such transmission, conveyance, or routing in which
3 computer processing applications are used to act on the form, code or
4 protocol of the content for purposes of transmission, conveyance or routing
5 without regard to whether such services are referred to as voice over
6 internet protocol (VoIP) services or are classified by the Federal
7 Communications Commission as enhanced or value added, and includes
8 video and/or data services that is functionally integrated with
9 ‘Telecommunications Services’. ‘Telecommunications Services’ include,
10 but are not limited to the following services, regardless of the manner or
11 basis on which such services are calculated or billed: central office and
12 custom calling features (including but not limited to call waiting, call
13 forwarding, caller identification and three-way calling), local number
14 portability, text messaging, Ancillary Telecommunication services; prepaid
15 and post-paid services (including but not limited to prepaid calling cards);
16 mobile telecommunications service; Private Communication Service;
17 paging service; and 800 service (or any other toll-free numbers designated
18 by the Federal Communications Commission). ‘Telecommunication
19 Services’ does not include digital downloads, such as downloads of books,
20 music, ringtones, games and similar digital products.
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24 O. ‘Electrical Corporation’ shall be construed to include any
25 organization or municipality or agency engaged in the selling or supplying
26 of electrical power to a Service User.

27 P. ‘Video Service Supplier’ means any Person, company, or
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1 service which provides one or more channels of video programming or
2 video communications (including the leasing of channel access to provide
3 such video programming or communications) to or from an address in the
4 City, including to or from a business, home, condominium, or apartment,
5 where some fee is paid, whether directly or included in dues or rental
6 charges for that service, whether or not public rights-of-way are utilized in
7 the delivery of the video programming or communications. 'Video Service
8 Supplier' includes, but is not limited to, multichannel video programming
9 distributors [as defined in 47 U.S.C. Section 522(12)], suppliers of cable
10 television, master antenna television, satellite master antenna television,
11 multichannel multipoint distribution services, direct broadcast satellite (to
12 the extent allowed by federal law), and other suppliers of video
13 programming or video communications (including two-way
14 communications), whatever their technology.

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17 Q. 'Video Services' means any and all services related to the
18 supplying of video programming (including origination programming),
19 communications (including two-way communications), regardless of the
20 content of the video programming or communications, and shall include,
21 without limitation, the leasing of channel access (e.g., home shopping) to
22 the extent that the Service User is subject to an additional direct or indirect
23 charge for programming or communications over the leased channel and
24 ancillary video services, including any service that is associated with or
25 incidental to the provision or delivery of video services, including but not
26 limited to electronic program guide services, search functions, or other
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1 interactive services that are associated with or incidental to the provision or
2 use of video programming.”

3 **Section 2.** Section 3.08.210 of the Culver City Municipal Code is hereby
4 amended to read as follows:

5 “§ 3.08.210 COMMUNICATION USERS' TAX.

6 A. There is hereby imposed a tax upon every Person with a Billing or Service
7 Address in the City who uses Communication Services, including intrastate, interstate
8 (including calls to the District of Columbia), and international Communications services,
9 to the extent permitted by state and federal law. The tax imposed by this Section shall
10 be at the rate of eleven percent (11%) of the charges made for such Communication
11 Services and shall be collected from the Service User by the Service Supplier or its
12 billing agent. To the extent allowed by law, the tax on Communication Services shall
13 apply to a Service User if the Billing or Service Address of the Service User is within the
14 City's boundaries.
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17 B. Except as otherwise provided herein, Communication Services shall
18 include all Communication Service for which there is a charge, regardless of the means
19 or technology used to provide such services. The tax imposed under Subsection A,
20 above shall not be imposed upon any Person for using the following Communications
21 Services:
22

- 23 (1) Except with respect to local telephone service, services used in the
24 collection of news for the public press, or a news ticker service furnishing a
25 general news service similar to that of the public press or radio broadcasting, or
26 in the dissemination of news through the public press, or a news ticker service
27 furnishing a general news service similar to that of the public press or by means
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1 of radio broadcasting, if the charge for such service is billed in writing to such
2 Person.

3 (2) Services furnished to a public international organization in which the
4 United States participates pursuant to treaty or Act of Congress, or to the
5 American National Red Cross.

6 (3) Any toll telephone service which originates within a combat zone
7 and is from a member of the Armed Forces of the United States performing
8 service in such combat zone; provided a certificate, setting forth such facts as
9 the Secretary of the United States Treasury may by regulations prescribe, is
10 furnished to the Person receiving such payment.

11 (4) No tax shall be imposed under this Section on the amount paid for
12 any Communications Services to the extent that the amount so paid is for use by
13 a common carrier, telephone or telegraph company, or radio broadcasting
14 station or network in the conduct of its business.

15 (5) The installation of any instrument, wire, pole, switchboard,
16 apparatus or equipment as is properly attributable to such installation.

17 (6) Amounts paid by a nonprofit hospital for services furnished to such
18 organization. For purposes of this exemption, the term "nonprofit hospital"
19 means a hospital referred to in Section 170(b)(1)(A)(iii) of the Internal Revenue
20 Code, which is exempt from federal income tax under Section 501(a) of the
21 Internal Revenue Code.

22 (7) Services or facilities furnished to the government of any State, or
23 any political subdivision thereof.

24 (8) Services or facilities paid for by a nonprofit educational organization
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1 and furnished to such organization. For purposes of this subsection, the term
2 NONPROFIT EDUCATIONAL ORGANIZATION means an educational
3 organization described in Section 170(b)(1)(A)(ii) of the Internal Revenue Code,
4 which is exempt from income tax under Section 501(a) of the same code. The
5 term also includes a school operated as an activity of an organization described
6 in Section 501(c)(3) of the Internal Revenue Code, which is exempt from income
7 tax under Section 501(a) of the same code, if such school normally maintains a
8 regular faculty and curriculum and normally has a regularly enrolled body of
9 pupils or students in attendance at the place where its educational activities are
10 regularly carried on.
11

12 (9) Items otherwise taxed. Only one payment of tax under this Section
13 shall be required with respect to the tax on any service.
14

15 C. As used in this Section, the term CHARGES shall include the value of any
16 other services, credits, property of every kind or nature, or other consideration provided
17 by the Service User in exchange for the Communication Services.

18 D. Charges for Video Services that are taxable under this Section include, but
19 are not limited to, charges for the following:

20 (1) Franchise fees and access fees (PEG), whether designated on the
21 customer's bill or not;

22 (2) Initial installation of equipment necessary for provision and receipt of
23 Video Services;

24 (3) All programming services (e.g., basic services, premium services,
25 audio services, video games, pay-per-view services, and electronic program
26 guide services);
27

1 (4) Equipment leases (e.g., converters, remote devices);

2 (5) Service calls, service protection plans, name changes, changes of
3 service, and special services (e.g., no promotional mail); and

4 (6) The leasing of channel access (e.g., home shopping) to the extent
5 that the Service User is subject to an additional direct or indirect charge for
6 programming or communications over the leased channel; provided that, in the
7 absence of evidence of direct payment by the Service User, the indirect payment
8 of the Service User(s), which is subject to the utility users tax, shall be deemed
9 to be the lease payment to the Video Service Supplier by the party leasing the
10 channel access.
11

12 E. The Tax Administrator shall, from time to time, survey the Video Service
13 Suppliers in the City to identify the various components of the video service that are
14 being offered to customers within the City, and the charges therefor. The Tax
15 Administrator may, thereafter, issue and disseminate to such Video Service Suppliers an
16 administrative ruling identifying those components: i) that are necessary or common to
17 the receipt, use and enjoyment of Video Services; or, ii) which currently are, or
18 historically have been, included in a bundled rate for video service by a local distribution
19 company. Charges for such components shall be subject to the tax of subsection A,
20 above.
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23 F. To prevent actual multi-jurisdictional taxation of Communication Services
24 subject to tax under this Section, any Service User, upon proof to the Tax Administrator
25 that the Service User owed and has previously paid the same tax in another state or city
26 on such Communication Services, shall be allowed a credit against the tax imposed to
27 the extent of the amount of such tax legally imposed in such other state or city; provided,
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1 however, the amount of credit shall not exceed the tax owed to the City under this
2 Section.

3 G. For purposes of imposing a tax or establishing a duty to collect and remit a
4 tax under this Subchapter, "substantial nexus" and "minimum contacts" shall be
5 construed broadly in favor of the imposition, collection and/or remittance of the utility
6 users tax to the fullest extent permitted by state and federal law, and as it may change
7 from time to time by judicial interpretation or by statutory enactment. Any
8 Communication Services used by a Person with a Service Address in the City, shall be
9 subject to a rebuttable presumption that "substantial nexus/minimum contacts" exists for
10 purposes of imposing a tax, or establishing a duty to collect and remit a tax, under this
11 Section. For Communication Services for which there is no billing address or primary
12 physical location for the provision of services, the service address shall mean the point
13 of sale of the services.
14

15 H. The tax on Communication Services imposed by this Section shall be
16 collected from the Service User by the Service Supplier. In the case of Video Services,
17 the Service User shall be deemed to be the purchaser of the bulk Video Services (e.g.,
18 an apartment owner), unless such services are resold to individual users, in which case
19 the Service User shall be the ultimate purchaser of the Video Services. The amount of
20 tax collected in one (1) Month shall be remitted to the Tax Administrator, and must be
21 received by the Tax Administrator on or before the twentieth (20th) day of the following
22 Month. If a Service Supplier of Communication Services uses a billing agent or billing
23 aggregator to bill, collect, and/or remit the tax, the Service Supplier shall: i) provide to the
24 Tax Administrator the name, address and telephone number of each billing agent and
25 billing aggregator currently authorized by the Service Supplier to bill, collect, and/or remit
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1 the tax to the City; and, ii) upon request of the Tax Administrator, deliver, or effect the
2 delivery of, any information or records in the possession of such billing agent or billing
3 aggregator that, in the opinion of the Tax Administrator, is necessary to verify the proper
4 application, calculation, collection and/or remittance of such tax to the City.

5 I. The Tax Administrator may, from time to time, issue and disseminate to
6 Service Suppliers, which are subject to the tax collection requirements of this Section, an
7 administrative ruling identifying those Communication Services that are subject to the tax
8 of subsection A, above. This administrative ruling shall be consistent with legal nexus
9 rules, regulations, and laws pertaining to Communication Services. To the extent that
10 the Tax Administrator determines that the tax imposed under this Section shall not be
11 collected in full for any period of time, such a determination falls within the Tax
12 Administrator's discretion to settle disputes. The Tax Administrator's exercise of
13 prosecutorial forbearance under this Subchapter does not constitute a change in taxing
14 methodology for purposes of Government Code Section 53750, and the City does not
15 waive or abrogate its ability to impose the communication users' tax in full as a result of
16 entering into such administrative agreements."
17

18
19 **Section 3.** Section 3.08.215 of the Culver City Municipal Code is hereby
20 amended to read as follows:

21 "§ 3.08.215 ELECTRICITY USERS' TAX.

22
23 A. There is hereby imposed a tax upon every Person using electricity in the
24 City. The tax imposed by this Section shall be at the rate of eleven percent (11%) of the
25 charges made for such electricity, and for any supplemental services or other associated
26 activities directly related to and/or necessary for the provision of electricity to the Service
27 Users, which are provided by a Service Supplier or Non-Utility Service Supplier to a

1 Service User.

2 B. As used in this Section, the term CHARGES shall include:

3 (1) Energy charges;

4 (2) Distribution or transmission charges;

5 (3) Metering charges;

6 (4) Stand-by, reserves, firming, ramping, voltage support, regulation,
7 emergency, or other similar minimum charges for services;

8 (5) Customer charges, service establishment or reestablishment
9 charges, demand charges, fuel or other cost adjustments, power exchange
10 charges, independent system operator (ISO) charges, stranded investment or
11 competitive transition charges (CTC), trust transfer, amounts (bond financing
12 charges), franchise fees, franchise surcharges, which are necessary or common
13 to the receipt, use and enjoyment of electric service; and,
14

15 (6) Charges, fees, or surcharges for electric services or programs,
16 which are mandated by the California Public Utilities Commission or the Federal
17 Energy Regulatory Commission, whether or not such charges, fees, or
18 surcharges appear on a bundled or line item basis on the customer billing.
19

20 C. The Tax Administrator shall, from time to time, survey the electric Service
21 Suppliers to identify the various unbundled billing components of electric retail service
22 that they commonly provide to residential and commercial/industrial customers in the
23 City, and the charges therefor, including those items that are mandated by state or
24 federal regulatory agencies as a condition of providing such electric service. The Tax
25 Administrator may, thereafter, issue and disseminate to such electric Service Suppliers
26 an administrative ruling identifying those components and items which are: i) necessary
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1 or common to the receipt, use and enjoyment of electric service; or, ii) currently, or
2 historically have been, included in a single or bundled rate for electric service by a local
3 distribution company to a class of retail customers. Unbundled charges for such
4 components and items shall be subject to the tax of subsection A, above.

5 D. As used in this Section, the term CHARGES shall include the value of any
6 other services, credits, property of every kind or nature, or other consideration provided
7 by the Service User in exchange for the electricity or services related to the provision of
8 such electricity.
9

10 E. As used in this Section, the term USING ELECTRICITY shall not include
11 the mere receiving of such electricity by an electric public utility or governmental agency
12 at a point within the City for resale.

13 F. The tax on electricity provided by a Non-Utility Service Supplier not under
14 the jurisdiction of this Subchapter shall be collected and remitted in the manner set forth
15 in § 3.08.222 of this Subchapter. All other taxes on charges for electricity imposed by
16 this Section shall be collected from the Service User by the electric Service Supplier or
17 its billing agent. The amount of tax collected in one (1) Month shall be remitted to the
18 Tax Administrator, and must be received by the Tax Administrator on or before the
19 twentieth (20th) day of the following Month; or, at the option of the Person required to
20 collect and/or remit the tax, such Person shall remit an estimated amount of tax
21 measured by the tax billed in the previous Month or upon the payment pattern of the
22 Service User, which must be received by the Tax Administrator on or before the
23 twentieth (20th) day of the following Month. If an electric Service Supplier uses a billing
24 agent or billing aggregator to bill, collect, and/or remit the tax, the Service Supplier shall:
25
26 i) provide to the Tax Administrator the name, address and telephone number of each
27

1 billing agent and billing aggregator currently authorized by the Service Supplier to bill,
2 collect, and/or remit the tax to the City; and, ii) upon request of the Tax Administrator,
3 deliver, or effect the delivery of, any information or records in the possession of such
4 billing agent or billing aggregator that, in the opinion of the Tax Administrator, is
5 necessary to verify the proper application, calculation, collection and/or remittance of
6 such tax to the City.”

7
8 **Section 4.** Section 3.08.220 of the Culver City Municipal Code is hereby
9 amended to read as follows:

10 “§ 3.08.220 GAS USERS' TAX.

11 A. There is hereby imposed a tax upon every Person using Gas in the City,
12 which is delivered through a pipeline distribution system. The tax imposed by this
13 Section shall be at the rate of eleven percent (11%) of the charges made for such Gas,
14 including all services related to the storage, transportation and delivery of such Gas.

15 B. As used in this Section, the CHARGES shall include:

16
17 (1) The community charges for purchased Gas, or the cost of Gas
18 owned by the Service User (including the actual costs attributed to drilling,
19 production, lifting, storage, gathering, trunkline, pipeline, and other operating
20 costs associated with the production and delivery of such Gas), which is delivered
21 through a Gas pipeline distribution system or by mobile transport;

22
23 (2) Gas transportation charges (including interstate charges to the
24 extent not included in commodity charges);

25 (3) Storage charges; provided, however, that the Service Supplier shall
26 not be required to apply the tax to any charges for Gas storage services when the
27 Service Supplier cannot, as a practical matter, determine the jurisdiction where
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such stored Gas in ultimately used; but it shall be the obligation of the Service User to self-collect the amount of tax not applied to any charge for Gas storage by the Service Supplier and to remit the tax to the appropriate jurisdiction;

(4) Capacity or demand charges, service establishment or reestablishment charges, transition charges, customer charges, minimum charges, annual and monthly charges, and any other charges, which are necessary or common to the receipt, use and enjoyment of Gas service; and,

(5) Charges, fees, or surcharges for Gas services or programs, which are mandated by the California Public Utilities Commission or the Federal Energy Regulatory Commission, whether or not such charges, fees, or surcharges appear on a bundled or line item basis on the customer billing.

C. The Tax Administrator shall, from time to time, survey the Gas Service Suppliers to identify the various unbundled billing components of Gas retail service that they commonly provide to residential and commercial/ industrial customers in the City, and the charges therefor, including those items that are mandated by state or federal regulatory agencies as a condition of providing such Gas service. The Tax Administrator may, thereafter, issue and disseminate to such Gas Service Suppliers an administrative ruling identifying those components and items which are: i) necessary or common to the receipt, use and enjoyment of Gas service; or, ii) currently, or historically have been, included in a single or bundled rate for Gas service by a local distribution company to a class of retail customers. Unbundled charges for such components and items shall be subject to the tax of subsection A, above.

D. As used in this Section, the term CHARGES shall include the value of any other services, credits, property of every kind or nature, or other consideration provided

1 by the Service User in exchange for the Gas or services related to the delivery of such
2 Gas.

3 E. There shall be excluded from the base on which the tax imposed in this
4 Section is computed (1) charges made for Gas which is to be resold and delivered
5 through a pipeline distribution system; (2) charges made for Gas to be used in the
6 generation of electricity by an Electrical Corporation; (3) charges made by a Gas public
7 utility for gas used and consumed in the conduct of the business of Gas public utilities;
8 (4) charges made for Gas used in the propulsion of a motor vehicle, as defined in the
9 California Vehicle Code, utilizing natural Gas, and (5) charges made for Gas used by a
10 Non-Utility Service Supplier to generate electricity for its own use or for sale to others
11 provided the electricity so generated is subject to the tax in accordance with § 3.08.215
12 of this Subchapter.
13

14 F. The tax that is calculated on charges for Gas provided by self-production or
15 by a Non-Utility Service Supplier not under the jurisdiction of this Subchapter shall be
16 collected and remitted in the manner set forth in § 3.08.222 of this Subchapter. All other
17 taxes on charges for Gas imposed by this Section shall be collected from the Service
18 User by the Gas Service Supplier or its billing agent. The amount of tax collected in one
19 (1) Month shall be remitted to the Tax Administrator, and must be received by the Tax
20 Administrator, on or before the twentieth (20th) day of the following Month; or, at the
21 option of the person required to collect and/or remit the tax, such Person shall remit an
22 estimated amount of tax measured by the tax billed in the previous Month or upon the
23 payment pattern of the Service User, which must be received by the Tax Administrator
24 on or before the twentieth (20th) day of the following Month. If a Gas Service Supplier
25 uses a billing agent or billing aggregator to bill, collect, and/or remit the tax, the Service
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1 Supplier shall: i) provide to the Tax Administrator the name, address and telephone
2 number of each billing agent and billing aggregator currently authorized by the Service
3 Supplier to bill, collect, and/or remit the tax to the City; and, ii) upon request of the Tax
4 Administrator, deliver, or effect the delivery of, any information or records in the
5 possession of such billing agent or billing aggregator that, in the opinion of the Tax
6 Administrator, is necessary to verify the proper application, calculation, collection and/or
7 remittance of such tax to the City.”

8
9 **Section 5.** Section 3.08.222 of the Culver City Municipal Code is hereby
10 amended to read as follows:

11 “§ 3.08.222 COLLECTION OF TAX FROM SERVICE USERS RECEIVING
12 DIRECT PURCHASE OF GAS OR ELECTRICITY.

13 A. Any Service User subject to the tax imposed by §§ 3.08.215 or by 3.08.220
14 of this Subchapter, which produces Gas or electricity for self-use; which receives Gas or
15 electricity, including any related supplemental services, directly from a Non-Utility
16 Service Supplier not under the jurisdiction of this Subchapter; or which, for any other
17 reason, is not having the full tax collected and remitted by its Service Supplier, a Non-
18 Utility Service Supplier, or its billing agent on the use of Gas or electricity, including any
19 related supplemental services, in the City, shall report said fact to the Tax Administrator
20 and shall remit the tax due directly to the Tax Administrator within thirty (30) days of such
21 use. In lieu of paying said actual tax, the Service User may, at its option, remit to the
22 Tax Administrator within thirty (30) days of such use an estimated amount of tax
23 measured by the tax billed in the previous Month, or upon the payment pattern of similar
24 customers of the Service Supplier using similar amounts of Gas or electricity, provided
25 that the Service User shall submit an adjusted payment or request for credit, as
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1 appropriate, within sixty (60) days following each calendar quarter. The credit, if
2 approved by the Tax Administrator, may be applied against any subsequent tax bill that
3 becomes due.

4 B. The Tax Administrator may require said Service User to identify its Non-
5 Utility Service Supplier and provide, subject to audit, invoices, books of account, or other
6 satisfactory evidence documenting the quantity of Gas or electricity used, including any
7 related supplemental services, and the cost or price thereof. If the Service User is
8 unable to provide such satisfactory evidence, or, if the administrative cost of calculating
9 the tax in the opinion of the Tax Administrator is excessive, the Tax Administrator may
10 determine the tax by applying the tax rate to the equivalent charges the Service User
11 would have incurred if the Gas or electricity used, including any related supplemental
12 services, had been provided by the Service Supplier that is the primary supplier of Gas
13 or electricity within the City. The rate schedule for this purpose shall be available from
14 the City.”

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16
17 **Section 6.** Section 3.08.225 of the Culver City Municipal Code is hereby
18 amended to read as follows:

19 “§ 3.08.225 WATER USERS' TAX.

20 A. There is hereby imposed a tax upon every Person using the City water
21 which is delivered through mains or pipes. The tax imposed by this Section shall be at
22 the rate of eleven percent (11%) of the charges made for such water and shall be paid
23 by the Person paying for such water.
24

25 B. There shall be excluded from the base on which the tax imposed in this
26 Section is computed charges made for water which is to be resold and delivered through
27 mains or pipes; and charges made by a municipal water department, public utility or a
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1 county or municipal water district for water used and consumed by such department,
2 utility or district in the conduct of the business of such department, utility or district.”

3 **Section 7.** Section 3.08.230 of the Culver City Municipal Code is hereby
4 amended to read as follows:

5 “§ 3.08.230 EFFECT OF STATE AND FEDERAL AUTHORIZATION.

6 To the extent that the City’s authorization to impose or collect the tax imposed in
7 this Subchapter is expanded or limited as a result of changes in state or federal law, no
8 amendment or modification of this Subchapter shall be required to conform the tax to
9 those changes, and the tax shall be imposed and collected to the full extent of the City’s
10 authorization up to the full amount of the tax imposed by this Subchapter.”

11
12 **Section 8.** Section 3.08.232 of the Culver City Municipal Code is hereby added
13 to read as follows:

14 “§ 3.08.232 BUNDLING TAXABLE AND NON-TAXABLE CHARGES.

15 If a non-taxable service and a taxable service are billed together under a single
16 charge, the entire charge shall be deemed taxable unless the Service Supplier or
17 taxpayer reasonably identifies actual charges not subject to the utility users tax based
18 upon books and records that are kept in the regular course of business, in a manner
19 consistent with generally accepted accounting principles.”

20
21 **Section 9.** Section 3.08.235 of the Culver City Municipal Code is hereby
22 amended to read as follows:

23 “§ 3.08.235 EXEMPTIONS.

24 A. Nothing in this Subchapter shall be construed as imposing a tax upon:

25 (1) Any Person or service if imposition of such tax upon that Person or
26 service would be in violation of a federal or California statute, the Constitution of
27

1 the United States or the Constitution of the State of California;

2 (2) The City;

3 (3) Any individual sixty (60) years of age or older, who uses
4 communication, electric, Gas, or water services; in or upon any premises
5 occupied by such individual; provided the total adjusted gross income of that
6 individual, as used for purposes of the California Personal Income Tax Law, was
7 no more than \$18,200 for the most recent completed calendar years; and
8 provided the combined adjusted gross income of all members of the household in
9 which such individual resided was no more than \$21,500; or
10

11 (4) Any individual who meets the criterion of disability, as established by
12 the Social Security Administration's Supplemental Security Income Program for
13 the Aged, Blind, and Disabled (Title XVI of the Social Security Act as amended),
14 without regard to the age of such disabled individual.
15

16 B. The exemptions granted by this Section shall not eliminate the duty of the
17 Service Supplier from collecting taxes from such exempt individuals, or the duty of such
18 exempt individuals from paying such taxes to the Service Supplier; unless an exemption
19 is applied for by the Service User and granted in accordance with the provisions of this
20 Section.

21 C. Any Service User exempt from the taxes imposed by this Subchapter
22 because of the provisions of subsection A, above, may file an application with the Tax
23 Administrator for an exemption. Such application shall be made upon a form supplied by
24 the Tax Administrator; and shall state those facts, declared under oath, which qualify the
25 applicant for an exemption.
26

27 D. The Tax Administrator shall review all such applications, and shall certify
28

1 as exempt those applicants determined to qualify therefor; and shall notify all Service
2 Suppliers affected that such exemptions have been approved. For each exemption, the
3 following information shall be transmitted to the Service Supplier:

- 4 (1) Name of exempt applicant;
- 5 (2) Account number shown on utility bill;
- 6 (3) Address to which exempt service is being supplied; and
- 7 (4) Any other information as may be necessary for the Service Supplier

8 to remove the exempt Service User from its tax billing procedure.
9

10 E. Upon receipt of such notice, the Service Supplier shall not be required to
11 continue to bill any further tax imposed by this Subchapter from such exempt Service
12 User, until further notice by the Tax Administrator is given. The Service Supplier shall
13 eliminate such exempt Service User from its tax billing procedure no later than sixty (60)
14 days after receipt of such notice from the Tax Administrator.
15

16 F. All exemptions shall continue and be renewed automatically by the Tax
17 Administrator, so long as the prerequisite facts supporting the initial qualification for
18 exemption shall continue; provided, however, that the exemption shall automatically
19 terminate with any change in the service address or residence of the exempt individual;
20 further provided such individual may nevertheless apply for a new exemption with each
21 change of address or residence.
22

23 G. The Tax Administrator shall have the power and right to demand evidence
24 of continued eligibility of a Service User for exemption under the provisions of this
25 Section. Such evidence may include, but need not be limited to, copies of business
26 records, letters or statements from the Social Security Administration, copies of income
27 tax returns, and such other evidence concerning the Service User or other members of
28

1 his or her household as may tend to prove or disprove such eligibility. Failure to provide
2 such evidence as is within the control of a Service User to so provide, either directly by
3 him or by his consent or the consent of a member of his or her household when such
4 evidence is requested of the Service User in writing by the Tax Administrator, shall be
5 grounds for the immediate discontinuance of the Service User's eligibility for exemption
6 under the provisions of this Section. Evidence provided to the Tax Administrator upon
7 request, or voluntarily provided by the Service User without request, may not be used
8 against such Service User as evidence of violation of the provisions of this Section; such
9 evidence may only be used as grounds for termination of the exemption herein provided.
10

11 H. Any individual exempt from the tax shall notify the Tax Administrator within
12 ten (10) days of any change in fact or circumstance which might disqualify said individual
13 from receiving such exemption. It shall be a misdemeanor for any Person to knowingly
14 receive the benefits of the exemptions provided by this Section, when the basis for such
15 exemption either does not exist or ceases to exist.
16

17 I. Notwithstanding any of the provisions hereof, any Service Supplier who
18 determines by any means that a new or nonexempt Service User is receiving service
19 through a meter or connection exempt by virtue of an exemption issued to a previous
20 user or exempt user of the same meter or connection, such Service Supplier shall
21 immediately notify the Tax Administrator of such fact; and the Tax Administrator shall
22 conduct an investigation to ascertain whether or not the provisions of this Section have
23 been complied with, and where appropriate, order the Service Supplier to commence
24 collecting the tax from the nonexempt Service User.
25

26 J. Any individual entitled to be exempt from the taxes imposed by this
27 Subchapter, who used communication, electric, Gas, or water services and paid more
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1 than \$3.00 in such taxes, may, during the calendar year following such payment, apply
2 for a refund thereof on forms provided by the Tax Administrator. Refund applications
3 shall contain a declaration of those facts, under oath, which qualify the applicant for a
4 refund, and shall be accompanied by the customer's bills showing the amount of such
5 taxes billed by Service Supplier during the preceding calendar year. Refund claims may
6 be filed by an individual who used communication, electric, Gas, or water services and
7 paid the taxes prescribed by this Subchapter either directly or indirectly to the 'Service
8 User' rather than the Service Supplier. In the event the applicant has lost or destroyed
9 any relevant billings or statements showing the amount of tax paid, or if the applicant
10 indirectly paid such taxes in conjunction with the occupation of premises without
11 receiving a specific billing therefor from the Service User, the maximum refund shall be
12 \$48.00, or \$4.00 for each full month of services received by the applicant, whichever is
13 less.
14

15
16 K. If the Tax Administrator determines that an application for exemption is
17 faulty, or that the applicant has failed to truthfully set forth such facts, the application for
18 the exemption shall be denied in writing to the applicant. The applicant shall thereafter
19 have a right to file an amended application for exemption; or to appeal the Tax
20 Administrator's decision to the City Manager within a 10-day period after the mailing date
21 of the Tax Administrator's rejection. In the case of an appeal, the City Manager shall
22 review the facts in consultation with the City Attorney, and shall render a final
23 determination on such appeal.
24

25 L. Upon request of the Tax Administrator, a Service Supplier, or its billing
26 agent, shall provide a list of the names and addresses of those customers which,
27 according to its billing records, are deemed exempt from the utility users tax.”
28

Section 10.

Section 3.08.240 of the Culver City Municipal Code is hereby

amended to read as follows:

“§ 3.08.240 COLLECTION OF TAX.

A. The duty of Service Suppliers to collect and remit the taxes imposed by the provisions of this Subchapter shall be performed as follows:

B. The tax shall be collected insofar as practicable at the same time as, and along with, the collection of charges made in accordance with the regular billing practice of the Service Supplier.

C. The duty to collect tax from a Service User shall commence with the beginning of the first regular billing period applicable to that Person which starts on or after the operative date of this Subchapter. Where a Person receives more than one (1) billing, one or more being for different periods than another, the duty to collect shall arise separately for each billing period.

D. If the amount paid by a Service User to a Service Supplier is less than the full amount of the charge and tax which has accrued for the billing period, a proportionate share of both the charge and the tax shall be deemed to have been paid. In those cases where a Service User has notified the Service Supplier of refusal to pay the tax imposed on said charges, § 3.08.260 of this Subchapter shall apply.”

Section 11.

Section 3.08.245 of the Culver City Municipal Code is hereby

amended to read as follows:

“§ 3.08.245 REPORTING AND REMITTING.

Each Person required by this Subchapter to remit a tax shall file a return with the Tax Administrator on forms approved by the Tax Administrator on or before the due date. The full amount of the tax owed shall be included with the return and filed with the

1 Tax Administrator. The Tax Administrator is authorized to require such further
2 information as he or she deems necessary to properly determine if the tax here imposed
3 is being levied and collected in accordance with this Subchapter. Returns and
4 remittances are due immediately upon cessation of business for any reason. Pursuant
5 to California Revenue and Taxation Code § 7284.6, the Tax Administrator, and its
6 agents, shall maintain such filing returns as confidential information, and not subject to
7 the Public Records Act.”

8
9 **Section 12.** Section 3.08.250 of the Culver City Municipal Code is hereby
10 amended to read as follows:

11 “§ 3.08.250 PENALTY.

12 A. Taxes collected from a Service User under this Subchapter, or owed by a
13 Service User subject to § 3.08.222 of this Subchapter, which are not remitted to the Tax
14 Administrator on or before the due dates provided in this Subchapter are delinquent.
15 Should the due date occur on a weekend or legal holiday, the return must be received by
16 the Tax Administrator on the first regular working day following the weekend or legal
17 holiday.

18
19 B. If the Person required to collect and/or remit a utility users tax under this
20 Subchapter fails to collect the tax by failing to properly assess the tax on one or more
21 charges on the customer's billing, such taxes are delinquent.

22
23 C. A penalty at the rate of fifteen percent (15%) of the total tax that is
24 delinquent shall be imposed upon the Service Supplier, or the Service User that fails to
25 properly self collect and remit the tax under § 3.08.222 of this Subchapter.

26 D. The Tax Administrator shall have power to impose additional penalties
27 upon Persons required to collect and/or remit taxes under the provisions of this

1 Subchapter for fraud or negligence in reporting or remitting at the rate of fifteen percent
2 (15%) of the amount of the tax collected and/or required to be remitted, or as
3 recomputed by the Tax Administrator.

4 E. In addition to any other penalties imposed by this Subchapter, any Person
5 required to collect and/or remit any tax imposed by the provisions of this Subchapter who
6 fails to collect the tax (by failing to properly assess the tax on the customers' billing) or
7 fails to remit the tax collected, or, in the cases of a Service User that fails to properly
8 self-collect and remit the tax under § 3.08.222 of this Subchapter, shall pay interest at
9 the rate of three-quarters of one percent ($\frac{3}{4}\%$) per Month, or any fraction thereof, on the
10 amount of the tax, exclusive of penalties, from the date on which the remittance first
11 became delinquent, until paid.”
12

13 **Section 13.** Section 3.08.255 of the Culver City Municipal Code is hereby
14 amended to read as follows:
15

16 “§ 3.08.255 ACTIONS TO COLLECT.

17 Any tax required to be paid by a Service User under the provisions of this
18 Subchapter shall be deemed a debt owed by the Service User to the City. Any such tax
19 collected from a Service User which has not been remitted to the Tax Administrator shall
20 be deemed a debt owed to the City by the Person required to collect and remit and shall
21 no longer be a debt of the Service User. In the event that a Service Supplier required to
22 collect and remit a tax under the provisions of this Subchapter fails to do so in whole or
23 in part, the amount of such unremitted tax shall be deemed a debt owed by the Service
24 Supplier to the City. Any Person owing money to the City under the provisions of this
25 Subchapter shall be liable to an action brought in the name of the City for the recovery of
26 such amount, plus any collection costs incurred by the City as a result of the Person's
27

1 noncompliance with this Subchapter, including, but not limited to, reasonable attorney's
2 fees.”

3 **Section 14.** Section 3.08.257 of the Culver City Municipal Code is hereby
4 amended to read as follows:

5 “§ 3.08.257 ADDITIONAL POWER AND DUTIES OF TAX ADMINISTRATOR.

6 A. The Tax Administrator shall have the power and duty, and is hereby
7 directed, to enforce each and all of the provisions of this Subchapter.
8

9 B. The Tax Administrator may adopt administrative rules and regulations not
10 inconsistent with provisions of this Subchapter for the purpose of carrying out and
11 enforcing the payment, collection and remittance of the taxes herein imposed. A copy of
12 such administrative rules and regulations shall be on file in the Tax Administrator's office.

13 C. Upon a proper showing of good cause, the Tax Administrator may make
14 administrative agreements, with appropriate conditions, to vary from the strict
15 requirements of this Subchapter, and thereby: i) conform to the billing procedures of a
16 particular Service Supplier (or Service User subject to § 3.08.222 of this Subchapter) so
17 long as said agreements result in the collection of the tax in conformance with the
18 general purpose and scope of this Subchapter; or ii) to avoid a hardship where the
19 administrative costs of collection and remittance greatly outweigh the tax benefit. A copy
20 of each such agreement shall be on file in the Tax Administrator's office, and is voidable
21 by the Tax Administrator or the City at any time. Such administrative agreements fall
22 within the Tax Administrator's discretion to settle disputes. The Tax Administrator's
23 exercise of prosecutorial forbearance under this Subchapter does not constitute a
24 change in taxing methodology for purposes of Government Code Section 53750, and the
25 City does not waive or abrogate its ability to impose the utility users tax in full as a result
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27
28

1 of entering into such administrative agreements.

2 D. The Tax Administrator shall be authorized to determine the eligibility of any
3 Person who asserts a right to exemption from or a refund of the tax imposed by this
4 Subchapter.”

5 **Section 15.** Section 3.08.260 of the Culver City Municipal Code is hereby
6 amended to read as follows:

7 “§ 3.08.260 FAILURE TO PAY TAX; ADMINISTRATIVE REMEDY.

8 A. Whenever the Tax Administrator determines that a Service User has
9 deliberately withheld the amount of the tax owed by him from the amounts remitted to a
10 Service Supplier, or that a Service User has failed to pay the amount of the tax for a
11 period of two (2) or more billing periods, or whenever the Tax Administrator deems it in
12 the best interest of the City, he or she may relieve the Service Supplier of the obligation
13 to collect taxes due under this Subchapter from certain named Service Users for
14 specified billing periods. The Service Supplier shall provide the City with the names and
15 addresses of such Service Users and the amounts of taxes owed under the provisions of
16 this Subchapter.
17
18

19 B. The Tax Administrator shall notify the Service User that he or she has
20 assumed responsibility to collect the taxes due for the stated periods and demand
21 payment of such taxes. The notice shall be served on the Service User by handing it to
22 him or her personally or by deposit of the notice in the United States mail, postage
23 prepaid thereon, addressed to the Service User at the address to which billing was made
24 by the Service Supplier; or should the Service User have changed his or her address, to
25 his or her last known address. If a Service User fails to remit the tax to the Tax
26 Administrator within fifteen (15) days from the date of the service of the notice upon him
27

1 or her, which shall be the date of mailing if service is not accomplished in person, a
2 penalty of twenty-five percent (25%) of the amount of the tax set forth in the notice shall
3 be imposed, along with interest at the rate of three-quarters of one percent ($\frac{3}{4}\%$) per
4 Month, or any fraction thereof, on the amount of the tax, exclusive of penalties, from the
5 date on which the remittance first became delinquent, until paid, but not less than Five
6 Dollars (\$5.00).

7
8 C. The Tax Administrator may make an assessment for taxes not paid or
9 remitted by a Service User required to pay or remit. A notice of the assessment which
10 shall refer briefly to the amount of the taxes and penalties imposed and the time and
11 place when such assessment shall be submitted to the City Council for confirmation or
12 modification. The Tax Administrator shall mail a copy of such notice to the Service
13 Supplier and Service User at least ten (10) days prior to the date of the hearing and shall
14 post such notice for at least five (5) continuous days prior to the date of the hearing in a
15 conspicuous place freely accessible to the public at large. Any interested party having
16 any objections may appear and be heard at the hearing provided his or her objection is
17 filed in writing with the Tax Administrator prior to the time set for the hearing. At the time
18 fixed for considering said assessment, the City Council shall hear the same together with
19 any objection filed regarding aforesaid and thereupon may confirm or modify said
20 assessment by motion.”
21

22
23 **Section 16.** Section 3.08.265 of the Culver City Municipal Code is hereby
24 amended to read as follows:

25 “§ 3.08.265 APPEALS.

26 A. If the Service User or Service Supplier is aggrieved by any decision or
27 administrative ruling of the Tax Administrator, or with the failure to grant a refund or

1 exemption as provided for under this Subchapter, he/she may appeal to a Board of
2 Review comprised of the City Manager, the Community Development Director and the
3 Public Works Director, or their duly authorized designee, by filing a notice of appeal with
4 the Tax Administrator within fourteen (14) days of the decision or administrative ruling
5 that aggrieved the Service User or Service Supplier. The Tax Administrator shall
6 thereupon fix a time and place for a hearing of such appeal. The Tax Administrator shall
7 give notice to such person of the time and place of hearing as herein provided.
8

9 B. The notice of appeal filed by the Service User or Service Supplier shall
10 contain the name and address of the Person appealing the action, the decision appealed
11 from and the grounds for the appeal. A defect in the form of the notice does not affect its
12 validity or the right to an appeal. The notice of appeal shall be accompanied by the fee
13 fixed by resolution of the City Council. The notice of appeal shall be served upon the
14 Tax Administrator by a deposit of the notice in the United States mail, postage prepaid
15 thereon, addressed to the Tax Administrator. For the purpose of this Section, a service
16 by mail is complete at the time of deposit in the United States mail. Within fifteen (15)
17 days after the date of service, the Person assessed may either apply in writing to the Tax
18 Administrator for a hearing on the assessment or may file a written request that such
19 hearing be waived. If the Person neither requests a hearing upon the assessment nor
20 requests a waiver of hearing within the prescribed time, the Tax Administrator's decision
21 becomes final, and penalties and interest as provided by this Subchapter shall continue
22 to accrue until paid.
23
24

25 C. Waiver of Hearing. If the Person requests that the hearing be waived, the
26 Tax Administrator may either grant such request and notify the person thereof in writing
27 or may, in his or her discretion, deny the request and set the appeal for hearing at the
28

1 time and in the manner prescribed herein. If the Tax Administrator grants the request for
2 waiver of hearing, the Board of Review shall consider the appeal without conducting a
3 hearing on the matter and issue its written decision within thirty (30) days of the date
4 upon which the Tax Administrator granted the request for waiver of hearing. The
5 decision of the Board of Review shall be served upon the appealing Service User or
6 Service Supplier by a deposit of a copy of the decision in the United States mail, postage
7 prepaid thereon, addressed to such Person.
8

9 D. If the Person requests a hearing upon any decision or administrative ruling
10 of the Tax Administrator or if the Tax Administrator denies the request for the waiver of
11 hearing, the Tax Administrator shall cause the matter to be set for hearing before the
12 Board of Review no later than ninety (90) days after the date of the application, or as the
13 case may be, the date of the Tax Administrator's denial of the request for waiver of
14 hearing. Notice of the time and place of the hearing shall be mailed to the Person
15 appealing the decision of the Tax Administrator not later than fifteen (15) days before the
16 date set for hearing and, if the Tax Administrator desires said person to produce specific
17 records at such hearing, such notice may designate the records required to be produced.
18

19 E. At the hearing the Person appealing the decision and the Tax Administrator
20 may submit such evidence as they believe to be relevant to their respective positions.
21 The Board of Review may require the presentation of additional evidence from either the
22 person assessed or from the Tax Administrator, or from both, and may continue the
23 hearing from time to time for the purpose of allowing the presentation of additional
24 evidence. The Board of Review shall issue a written decision within thirty (30) days of
25 the conclusion of the hearing. The decision of the Board of Review shall be served upon
26 the appealing Service User or Service Supplier by a deposit of a copy of the decision in
27

1 the United States mail, postage prepaid thereon, addressed to such Person.

2 F. Exception. Within fifteen (15) days from the date of service of the notice of
3 decision of the Board of Review, the Person appealing the decision of the Tax
4 Administrator may file written exceptions to the decision of the Board of Review. Upon
5 filing of written exceptions, the Board of Review may either deny the exceptions or
6 modify its decision, as it deems appropriate. If the Board of Review modifies its
7 decision, it shall cause a written notice of decision as required herein to be given to the
8 Person appealing the decision of the Tax Administrator at the time, and in the manner
9 provided herein. If the Board of Review does not modify its decision within thirty (30)
10 days from the service of said exceptions, the exceptions shall be deemed denied.

12 G. Effect of delay in administrative proceeding. Failure of the Tax
13 Administrator to set any hearing within the time prescribed herein and failure of the
14 Board of Review to complete any procedure prescribed in this Section within the period
15 stated shall not affect the validity of any proceedings taken hereunder. The City's failure
16 to meet the notice and timing requirements under this Section does not constitute a
17 waiver of the City's rights; nor does such a failure abrogate any decision of the Tax
18 Administrator or the Board of Review.

20 H. Effect of payment of a tax. Acceptance of any payment upon a tax, the
21 validity of which has not previously been passed upon by the Board of Review, shall not
22 preclude the Tax Administrator from subsequently levying another assessment in any
23 case where the original assessment does not truly reflect the correct tax liability.”

25 **Section 17.** Section 3.08.267 of the Culver City Municipal Code is hereby
26 adopted to read as follows:

27 “§ 3.08.267 NO INJUNCTION OR WRIT OF MANDATE.

1 No injunction or writ of mandate or other legal or equitable process shall issue in
2 any suit, action, or proceeding in any court against this City or against any officer of the
3 City to prevent or enjoin the collection under this Subchapter of any tax or any amount of
4 tax required to be collected and/or remitted.”

5 **Section 18.** Section 3.08.270 of the Culver City Municipal Code is hereby
6 amended to read as follows:

7 “§ 3.08.270 RECORDS.

8
9 A. It shall be the duty of every Person required to collect and/or remit to the
10 City any tax imposed by this Subchapter to keep and preserve, for a period of at least
11 three (3) years, all records as may be necessary to determine the amount of such tax as
12 he or she may have been liable for the collection of and remittance to the Tax
13 Administrator, which records the Tax Administrator, or the Tax Administrator's
14 designated representative, shall have the right to inspect at all reasonable times. The
15 Tax Administrator, or the Tax Administrators' designated representative, is authorized to
16 execute a non-disclosure agreement approved by the City Attorney to protect the
17 confidentiality of customer information pursuant to California Revenue and Taxation
18 Code §§ 7284.6-7284.7.

19
20 B. The Tax Administrator, or the Tax Administrators' designated
21 representative, may request from a Person providing transportation or distribution
22 services of Gas or electricity to Service Users within the City, a list of the names, billing
23 and service addresses, quantities of Gas or electricity delivered, and other pertinent
24 information, of its transportation customers within the City pursuant to Section 6354(e) of
25 the California Public Utilities Code.

26
27 C. If any Person subject to record-keeping under this Section unreasonably

1 denies the Tax Administrator, or the Tax Administrator's designated representative,
2 access to such records, the Tax Administrator, or the Tax Administrator's designated
3 representative, may impose a penalty of five hundred dollars (\$500) on such Person for
4 each day following the initial date that the Person refuses to provide such access. This
5 penalty shall be in addition to any other penalty imposed under this Subchapter.”

6 **Section 19.** Section 3.08.275 of the Culver City Municipal Code is hereby
7 amended to read as follows:
8

9 “§ 3.08.275 REFUNDS.

10 A. Whenever the amount of any tax has been overpaid, paid more than once,
11 or has been erroneously or illegally collected or received by the Tax Administrator under
12 this Subchapter, it may be refunded as provided in this Section.

13 B. The Tax Administrator may refund any tax that has been overpaid, paid
14 more than once, or has been erroneously or illegally collected or received by the Tax
15 Administrator under this Subchapter, provided that no refund shall be paid under the
16 provisions of this Section unless the claimant or his or her guardian, conservator,
17 executor or administrator has submitted a written claim to the Tax Administrator within
18 one year of the overpayment or erroneous or illegal collection of said tax. Such claim
19 must clearly establish claimant's right to the refund by written records showing
20 entitlement thereto. Nothing herein shall permit the filing of a claim on behalf of a class
21 or group of taxpayers. The submission of a written claim, which is acted upon by the
22 City Council, shall be a prerequisite to a suit thereon. (See Government Code Section
23 935). The City Council shall act upon the refund claim within the time period set forth in
24 Government Code Section 912.4. If the City Council fails or refuses to act on a refund
25 claim within the time prescribed by Government Code Section 912.4, the claim shall be
26
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1 deemed to be rejected by the City Council on the last day of the period within which the
2 City Council was required to act upon the claim as provided in Government Code
3 Section 912.4.

4 C. It is the intent of the City Council that the one year written claim
5 requirement of this subsection be given retroactive effect; provided, however, that any
6 claims which arose prior to the commencement of the one year claims period of this
7 Section, and which are not otherwise barred by a then-applicable statute of limitations or
8 claims procedure, must be filed with the Tax Administrator as provided in this subsection
9 within ninety (90) days following the effective date of this Section.
10

11 D. Notwithstanding other provisions of this Section, whenever a Service
12 Supplier, pursuant to an order of the California Public Utilities Commission or a court of
13 competent jurisdiction, makes a refund to Service Users of charges for past utility
14 services, the taxes paid pursuant to this Subchapter on the amount of such refunded
15 charges shall also be refunded to Service Users, and the Service Supplier shall be
16 entitled to claim a credit for such refunded taxes against the amount of tax which is due
17 upon the next monthly return. In the event this Subchapter is repealed, the amounts of
18 any refundable taxes shall be borne by the City.”
19

20 **Section 20.** Section 3.08.278 of the Culver City Municipal Code is hereby
21 added to read as follows:
22

23 “§3.08.278 AUDIT OF COMMUNICATIONS USERS’ TAX.

24 The City shall annually verify that the Communications Users’ Tax imposed by
25 this Subchapter has been properly collected and remitted in accordance with this
26 Subchapter, and properly expended according to applicable law. The annual verification
27 shall be performed under the direction of the Tax Administrator by a qualified
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1 independent third party employing reasonable, cost-effective procedures.”

2 **Section 21.** Section 3.08.280 of the Culver City Municipal Code is hereby
3 readopted to read as follows:

4 “Section 3.08.280 SEVERABILITY.

5 If any section, subsection, subdivision, paragraph, sentence, clause or phrase of
6 this Subchapter or any part thereof is for any reason held to be unconstitutional, such
7 decision shall not affect the validity of the remaining portions of this Subchapter or any
8 part thereof. The City Council hereby declares that it would have passed each Section,
9 subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of
10 the fact that any one (1) or more sections, subsections, subdivisions, paragraphs,
11 sentences, clauses or phrases be declared unconstitutional.”

12
13 **Section 22.** Section 3.08.285 of the Culver City Municipal Code is hereby
14 deleted.

15
16 **Section 23.** Section 3.08.287 of the Culver City Municipal Code is hereby added
17 to read as follows:

18 “§3.08.287. AMENDMENT OR REPEAL.

19 Taxes imposed by this Subchapter may be decreased, repealed or amended by
20 the City Council, but may not be increased without a vote of the people as required in
21 California Constitution Article XIII C and California Government Code Section 53750(h).”

22
23 **Section 24.** Majority Approval. This Ordinance shall be effective only if
24 approved by a majority of the voters voting thereon (50% + 1) and shall go into effect ten
25 (10) days after the vote is declared by the City Council.

26 **Section 25.** Severability. If any section, sentence, clause, phrase, or portion of
27 this Ordinance is for any reason held to be invalid or unenforceable by a court of

1 competent jurisdiction, the remaining sections, sentences, clauses, phrases, or portions
2 of this Ordinance shall nonetheless remain in full force and effect. The people of the City
3 of Culver City hereby declare that they would have adopted each section, sentence,
4 clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more
5 sections, sentences, clauses, phrases, or portions of this Subchapter be declared invalid
6 or unenforceable and, to that end, the provisions of this Ordinance are severable.

7 **Section 26.** Execution. The Mayor is hereby authorized to attest to the
8 adoption of this Ordinance by signing where indicated below.
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