Utility Users Tax Ordinance

City of Richmond, CA

Chapter 13.52

Telecommunication, Gas, Electricity, Water and Video Users Tax*

Sections:

*Prior ordinance history: Ordinance Nos. 33-83 N.S., 1-84 N.S., 23-84 N.S., 30-84 N.S., 33-84
N.S., 24-85 N.S., 20-87 N.S., 36-90 N.S. and 38-90 N.S.

13.52.010 Title.

This Chapter shall be known as the Telecommunication Users, Electricity User, Gas User and Video
User Tax Ordinance of the City of Richmond.

13.52.020 Definitions.

The following words and phrases whenever used in this Chapter shall be construed as defined in
this section.

(a) "Person" means, without limitation, any natural individual, firm, trust, common law trust, estate,

partnership of every kind, association, society, syndicate, club, joint stock company, joint venture,
limited liability company, corporation (foreign or domestic), cooperative, or receiver, trustee,
guardian or other representative appointed by order of any court, or other entity.

(b) "City" means the City of Richmond, California

(c) "Cogenerator" means any Person employing cogeneration (as defined in Section 218.5 of the
California Public Utilities Code) for producing power for the generation of electricity for self-use or
sale to others from a qualified cogeneration facility (as defined in the Federal Public Utility
Regulatory Policies Act of 1978 and regulations thereunder).

(d) "Electrical Corporation" shall mean a corporation or person as defined in Public Utilities Code
Section 218.

(e) "Exempt Wholesale Generator" shall have the same meaning as set forth in the Federal Power
Act (15 U.S.C. 79z-5-a) and regulations thereunder.

(f) "Gas" shall mean natural or manufactured gas or any alternate hydrocarbon fuel which may be
substituted therefor.

(g) "Franchised video services providers" means any video servies provider enfranchised by the
City pursuant to a franchise agreement to provide video services in the City.

(h) "Gas Corporation" means a corporation or person as defined in Public Utilities Code Section
222.

(i) "Intrastate Telecommunication" means all telecommunications regardless of routing that either (i)
originate in the City and terminate in the State, or (ii) originate in the State and terminate in the
city, where, in either instance, a billing address for the telecommunication service user is in the City.

(j) "Interstate Telecommunication" means all telecommunications that either (i) originate in the City
and terminate in another state, or (ii) originate in another state and terminate in the City, where, in
either instance, a billing address for the telecommunication Service User is in the City.

(k) "International Telecommunication" means all telecommunications that either (i) originate in the City and terminate outside the United States, or (ii) originate outside of the United States and terminate in the City, where, in either instance, a billing address for the telecommunication Service User is in the City.

(l) "Month" means a calendar month.

(m) "Non-Utility Supplier" means: (1) a Service Supplier, other than an Electrical Corporation franchised to serve within the City, which generates electricity in capacities of 50 kilowatts, or more, for its own use or for sale to others, and shall include but is not limited to any publicly-owned electric utility, investor-owed utility, municipal utility district, federal power marketing agency, electric rural cooperative, or other supplier or seller of electricity; or, (2) a gas supplier other than a Gas Corporation franchised to serve within the City, which sells or supplies gas to users within the City.

(n) "Service Supplier" means any Person required to collect or to self-collect and to remit a tax as imposed by this chapter.

(o) "Service User" means a Person required to pay a tax imposed under the provisions of this chapter.

(p) "State" means the State of California.

(q) "Tax Administrator" means the Finance Director of the City.

(r) "Tax Year" means the twelve-month period commencing July 1st and ending June 30th of the next succeeding calendar year.

(s) "Telecommunication Services" include, in addition to the meaning ordinarily and popularly ascribed to it, without limitation, the transmission of messages or information (including but not limited to voice, data, facsimile, video, text) through the use of the local, toll, or wide area telephone service; telegraph or teletypewriter services; cellular telephone services; or any other transmission of messages or information by electronic or similar means through "interconnected service" with the "public switched network" [as those terms are commonly

used in the Federal
Communications Act and the regulations of the Federal Communications Commission (see 47
U.S.C.A. 322(d))] by wire, cable, fiber-optics, light waves, laser, microwaves, radio waves,
switching facilities, satellite or similar facilities, whether such service is provided by a Telephone
Corporation, competitive access provider, private communication service provider, private
communication service provider, or any other Person. "Telecommunication Services" shall include
"basic telecommunication services" and "directly related services," as those terms are defined and
interpreted by the Federal Communications Commission in its regulations and decisions.
"Telecommunication Services" shall not include private communication services, land mobile
services or maritime mobile services, which are not interconnected with the public switched network.

(t) "Telephone Corporation" means a corporation or person as defined in Public Utilities Code
Section 234.

(u) "Video Services franchise fee" means the franchise fee billed by a franchised video services
provider to its customers and paid by the customers to the franchised video services provider and,
in turn, paid by the franchised video services provider to the City in accordance with the franchise
agreement between the City and the franchised video services provider.

(v) "Video Services" means any and all services related to the providing of video programming
(including origination programming), or communications (including two-way communications),
regardless of the content of the video programming or communications, and shall include the
leasing of channel access, but shall not include services for which a tax is paid under Section
13.52.030.

(w) "Video services provider" means any Person who provides one or more channels of video
programming or communications (including the leasing of channel access to provide such video
programming or communications) to an address in the City, including to a business, home,
condominium or apartment, where some fee is paid, whether directly or as included in dues or

rental charges for that service, whether or not public rights-of-way are utilized in the delivery of the video programming or communications. A "Video Service Provider" includes, but is not limited to, multichannel video programming distributors [as defined in 47 U.S.C. 522 (12)], providers of cable television, master antenna television, satellite master antenna television, direct broadcast satellite, multichannel multipoint distribution services, and other providers of video programming or communications (including two-way communications), whatever their technology.

13.52.030 Telecommunication User Tax.

(a) There is hereby imposed a tax upon every Person, other than a Telephone Corporation, using Interstate, International, and/or Intrastate Telecommunication Services in the City. The tax imposed by this section shall be at the rate of eight (8%) percent of the charges made for such services, and shall be paid by the Person paying for such services. Intrastate, Interstate, and International telecommunication services shall include, but not be limited to, cellular telephone services and other telecommunication services that are interconnected with the public switched network by means of various technologies, provided, however, that the tax shall not apply to network usage-related charges for cellular telephone services and other similar mobile services for which the service provider cannot, as a practical matter, determine the origination or termination of the telecommunication. The Tax Administrator may adopt administrative rules for assuring a reasonable and consistent allocation of the monthly cellular billing between network usage-related charges and non-usage related charges.

"Charges" shall also include the value of any other services, credits, property of every kind or nature, or other consideration provided by the Service User in exchange for the Telecommunication Services.

(b) Notwithstanding the provisions of Subsection (a) of this section, the tax imposed under this section shall not be imposed upon any Person for using Telecommunication Services to the extent that the amounts paid for such services are exempt from or not subject to the tax imposed under

Section 4251 of the Internal Revenue Code, and the regulations thereunder, except for the
following charges, which are taxable under this section:

(1) charges to a Service User by a hotel or motel for Telecommunication Services used in the City
when such charges are incidental to the right of occupancy in such hotel or motel. Collection of the
tax shall be the responsibility of the hotel or motel; and

(2) charges to a Service User in the City by a Telecommunication Services Provider, including but
not limited to an alternative or nontraditional telephone service provider, a private communication
service provider, or a competitive access provider, for providing: i) telecommunication services used
in the City, and/or ii) access to telephone toll service of an interexchange carrier.

(c) The tax imposed by this section shall be collected from the Service User by the Person
providing the Telecommunication Services, or by the motel or hotel owner in the case of subsection
(b) (1) above. The amount of tax collected in one month shall be remitted by U.S. Mail, to the Tax
Administrator, postmarked on or before the last day of the following month; or, at the option of the
Person required to collect or remit the tax, such Person shall remit an estimated amount of tax
measured by the tax billed in the previous month or upon the payment pattern of the customer(s)
of the Service Supplier.

(d) To prevent actual multi-jurisdictional taxation of Telecommunication Services subject to tax
under this section, any Service User, upon proof to the Tax Administrator that the Service User has
previously paid the same tax in another state or city on such Telecommunication Service, shall be
allowed a credit against the tax imposed to the extent of the amount of such tax legally imposed in
such other state or city, provided, however, the amount of credit shall not exceed the tax owed to
the City under this section.

13.52.040 Electricity Users Tax.

(a) There is hereby imposed a tax upon every Person using electricity in the City. The tax imposed
by this section shall be at the rate of eight (8%) percent of the charges made for

such electricity,
and for any supplemental services provided by a Service Supplier or Non-Utility Supplier to a
Service User related to the provision of electricity, other than cogenerated electricity. The tax shall
be paid by the Person paying for such electricity or supplemental services.

(b) "Charges", as used in this section, shall include charges made for (1) metered energy; (2)
minimum charges for services, including customer charges, service charges, demand charges,
standby charges, fuel or other cost adjustments, and all other annual and monthly charges,
authorized by the California Public Utilities Commission or the Federal Energy Regulatory
Commission. "Charges" for "supplemental services related to the provision of electricity" shall
include charges made for: (1) wheeling, transmission, or distribution; and (2) standby, reserves,
firming, ramping, voltage support, regulation, emergency, or other similar services. "Charges" shall
also include the value of any other services, credits, property of every kind or nature, or other
consideration provided by the Service User in exchange for the electricity or services related to the
provision of such electricity.

(c) As used in this section, the term "using electricity" shall not be construed to mean the storage
of electrical energy by a Person in a battery that such Person owns or possesses for use in an
automobile or other machinery or device apart from the premises upon which the electricity was
received; provided, however, the term shall include the receiving of such electricity for the purpose
of using it in the charging of batteries; nor shall the term include the mere receiving of such
electricity by an Electrical Corporation or governmental agency at a point within the City for resale.

(d) The tax imposed in this section shall be collected from the Service User by any electricity
Service Supplier or Non-Utility Supplier. The amount of tax collected in one month shall be remitted
by U.S. Mail, to the Tax Administrator, postmarked on or before the last day of the following month;
or, at the option of the Person required to collect or remit the tax, such Person shall remit an
estimated amount of tax measured by the tax billed in the previous month or

upon the payment
pattern of the customer(s) of the Service Supplier.
The tax on electricity provided by self-production or by a Non-Utility Supplier or an electric utility not
under the jurisdiction of this chapter shall be collected and remitted in the manner set forth in
Section 13.52.070.

13.52.050 Cogenerated Electricity Users Tax.

(a) Notwithstanding Section 13.52.040 of this chapter, there is hereby imposed a tax upon every
Person using cogenerated electricity in the City. The tax imposed by this section shall be at the
rate of eight (8%) percent of the value of the cogenerated electricity consumed in the City. If the
Cogenerator consumes the cogenerated electricity, such electricity shall be valued at the electric
utility supplier's combined "Avoided Cost Energy Pricing and Avoided Cost Capacity Pricing" which
is filed with the California Public Utilities Commission. The Cogenerator/Service User shall pay the
tax as provided in Section 13.52.060.

If the Cogenerator sells the energy for consumption in the City, the value of the cogenerated
electricity shall be based upon the actual charges made for such service and shall be collected
from the Service User by the Cogenerator/Non-Utility Supplier. The amount of tax collected in one
month shall be remitted by U.S. Mail, to the Tax Administrator, postmarked on or before the last
day of the following month. The tax on cogenerated electricity provided by a non-Utility Supplier
not under the jurisdiction of this chapter shall be collected and remitted in the manner set forth in
Section 13.52.070.

Whether the Cogeneration consumes or sells the cogenerated energy, in addition to the tax
provided in this section, the Service User shall pay a tax on all charges for supplemental services
as described in Section 13.52.040(b) above.

(b) The Cogenerator shall install and maintain an appropriate metering system which will enable
compliance with this section.

13.52.060 Gas Users Tax.

(a) There is hereby imposed a tax upon every Person using gas in the City which is transported
through a pipeline distribution system or by mobile transport. The tax imposed by this section shall
be at the rate of eight (8%) percent of the charges made for such gas, including all services related
to the storage, transportation and delivery of such gas, and shall be paid by the Person using
such gas; provided, however, that the tax shall not apply to any charges for gas storage services
when the Service Supplier cannot, as a practical matter, determine the location where such stored
gas is ultimately used. "Charges" as used in this section shall include: (1) the commodity charges
for purchased gas, or the cost of gas owned by the Service User, which is delivered through a gas
pipeline distribution system or by mobile transport; (2) gas transportation charges (including
interstate charges to the extent not included in commodity charges); and (3) capacity or demand
charges, service charges, customer charges, minimum charges, annual and monthly charges, and
any other charges authorized by the California Public Utilities Commission or the Federal Energy
Regulatory Commission.

The "cost of gas owned by the Service User" shall include the actual costs attributed to drilling,
production, lifting, storage, gathering, trunkline, pipeline, and other operating costs associated with
the production and delivery of such gas. "Charges" shall also include the value of any other
services, credits, property of every kind or nature, or other consideration provided by the Service
User in exchange for the gas or services related to the delivery of such gas.

(b) There shall be excluded from the tax imposed in this section: (1) charges made for gas which is
to be resold and delivered through a pipeline distribution system or by mobile transport; or, (2)
charges made for Cogenerator, an Electric Corporation, a public agency that supplies or sells
electricity, or an Exempt Wholesale Generator.

(c) The tax on charges for gas provided by self-production or by Non-Utility Supplier not under the
jurisdiction of this chapter shall be collected and remitted in the manner set forth in Section
13.52.060. All other taxes on charges for gas imposed by this section shall be

collected from the Service User by the gas Service Supplier. The amount of tax collected in one month shall be remitted by U.S. Mail, to the Tax Administrator, postmarked on or before the last day of the following month; or, at the option of the Person required to collect or remit the tax, such Person shall remit an estimated amount of tax measured by the tax billed in the previous month or upon the payment pattern of the Service User.

(d) Where a gas Service Supplier is providing transportation services to a Service User and the Service User has purchased the commodity from a third party, then the transporting gas Service Supplier shall collect the tax imposed by this section from the Service User, which shall be calculated as follows:

(1) eight (8%) percent of the transportation charges (including interstate charges to the extent not included in the commodity charges); plus,

(2) eight (8%) of the imputed value of the transported commodity as calculated in accordance with Public Utilities Code Section 6353(a), (b) and (c), or, at the election of the Service User eight (8%) of the actual charges for the transported commodity.

(e) If the Service User elects to pay the tax based upon the actual charges for the transported commodity as provided in subsection (d) (ii) above, the Service User must:

(1) give thirty days (30) prior written notice to the Tax Administrator of such election; and,

(2) submit to the Tax Administrator an adjusted payment or request for credit, as appropriate, within sixty (60) days following each calendar quarter to reflect the difference between the tax based upon the imputed value in accordance with the Public Utilities Code 6353 (a), (b) and (c) and the actual charges for the transported commodity. The credit, if approved by the Tax Administrator, may be applied against any subsequent tax bill that becomes due.

13.52.070 Collection of Tax from Service Users Receiving Direct Purchase of Gas or Electricity.

(a) Any Service User subject to the tax imposed by Section 13.52.050 or 13.52.060 hereof, which produces gas or electricity for self-use, or which receives gas or electricity directly from a Non-Utility Supplier not under the jurisdiction of this ordinance, or which otherwise does have the full tax due on the use of electricity in the City directly billed and collected by the Service Supplier, shall report said fact to the Tax Administrator within thirty (30) days of such use. In lieu of paying said actual tax, the Service User may, at its option, remit to the Tax Administrator within thirty (30) days of such use an estimated amount of tax measured by the tax billed in the previous month, or upon the pattern payment of similar customers of the Service Supplier using similar amounts of electricity, provided that the Service User shall submit an adjusted payment or request for credit, as appropriate, within sixty (60) days following each calendar quarter. The credit, if approved by the Tax Administrator, may be applied against any subsequent tax bill that becomes due.

(b) The Tax Administrator may require said Service User to identify its Non-Utility Supplier and provide, subject to audit, invoices, books of account, or other satisfactory evidence of documenting the quantity of electricity used and the or price thereof. If the Service User is unable to provide such satisfactory evidence, or, if the administrative cost of calculating the tax, in the opinion of the City, is excessive, the City may determine the tax by applying the tax rate to the equivalent charges the Service User would have incurred if the electricity or gas used had been provided by the Service Supplier which is the primary provider of electricity or gas within the City. Rate schedule for this purpose shall be available from the City.

13.52.080 Video Users Tax.

(a) There is hereby imposed a tax upon every Person in the City using Video Services from a Video Services Provider. The tax imposed by this section shall be at the rate of eight percent (8%) of the charges made for such service; provided, however, that the tax imposed by this section on any person using video services provided by a franchised video services provider shall be at a rate equal to eight percent (8%) minus the rate of applicable video services franchise fee. The tax imposed by this section shall be paid by the person paying for such service. "Charges" shall include charges for leased access channels and origination programming, which are transmitted to Video Service Users in the City and shall also include the value of any other services, credits, property of every kind of nature, or other consideration provided by the Video Services User in exchange for the Video Services, but shall not include any video services franchise fee paid by the video user.

(b) The tax imposed by this section shall be collected from the Service User by the Video Services Provider. Franchised video services providers subject to this section shall provide the Tax Administrator within thirty (30) days of the effective date of this section with sufficient information to set the rate of the tax which, in accordance with this section, such franchised video services provider must collect from its service users, and shall promptly notify the Tax Administrator of any change in any such information previously provided as a basis for determining the tax rate. The amount of tax collected in one month shall be remitted by U.S. Mail, to the Tax Administrator, postmarked on or before the last day of the following month; or, at the option of the video services provider, such person shall remit an estimated amount of tax measured by the tax billed in the previous month or upon the payment pattern of the service user.

13.52.090 Exemptions.

The taxes imposed by this chapter shall not apply to:

(a) Any Person if imposition of such tax upon that Person would be in violation of the Constitution of the United States or the Constitution of the State of California;

(b) The City;

(c) charges related to late payments, returned checks and collection charges;
The Tax Administrator shall annually prepare a list of the Persons exempt from the provisions of subsection (a) and furnish a copy thereof to each Service Supplier. The list shall contain the name

of the exempt Person, together with the current address to which service is supplied.

13.52.100 Maximum Tax Payable.

(a) The maximum tax payable by any Service User under the cumulative application of Sections
13.52.030, 13.52.040, 13.52.050, 13.52.060, 13.52.070 and 13.52.080 and this section shall be
the base amount of $1,148,137.54 for each percent of tax imposed for any Tax Year, which base
amount shall be adjusted annually by that percentage which is ninety (90%) of the total
percentage of change in the United States Department of Labor, Bureau of Labor Statistics' Gas
(piped) and Electric Consumer Price Index For All Consumers Urban for the San
Francisco/Oakland/San Jose Area calculated on the basis of the two consecutive and most recent
completed years for which data is available from the United States Department of Labor.
This maximum tax liability shall be effective only if the Service User elects to avail itself of such
maximum tax liability provision and enters into an agreement with the Tax Administrator prior to the
commencement of the Tax Year to pay the maximum tax liability directly to the City during the Tax
Year. No portion of the sum shall be refundable in the event the Service User subsequently
determines that its tax liability under this chapter would have been less than the maximum tax
liability. Upon execution of the agreement between the Tax Administrator and the Service User, the
Tax Administrator shall notify all relevant Service Suppliers of the names and locations of all
Service Users making payments directly to the City.

13.52.110 Duty to Collect: Procedures.

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

(a) The tax shall be collected insofar as practicable at the same time as, and along with, the
charges made in accordance with the regular billing practice of the Service Supplier. Where 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, such amount and any subsequent

payments by a
Service User shall be applied to the accrued charge first until such charge has been fully satisfied.
Any remaining balance shall be applied to taxes due. In those cases where a Service User has
notified the Service Supplier of refusal to pay the tax imposed on said charges, Section

13.52.016(B) shall apply.

(b) The duty to collect the tax from a Service User shall commence with the beginning of the first
regular billing period applicable to the Service User where all charges normally included in such
regular billing are subject to the provisions of this chapter. Where a Person receives more than one
billing, one or more being for different periods than another, the duty to collect shall arise
separately for each billing period.

13.52.120 Filing Return and Payment.

Each Service Supplier or Service User subject to Section 13.52.070 shall make a return to the Tax
Administrator, on forms provided by the Tax Administrator. The full amount of the tax collected shall
be included with the return and filed with the Tax Administrator. The Tax Administrator is authorized
to require such additional information as the Tax Administrator deems necessary to determine if the
tax is being levied and collected in accordance with this chapter. Returns are due immediately
upon cessation of business for any reason.

13.52.130 Collection Penalties.

(a) Taxes collected from a Service User which are not remitted to the Tax Administrator on or
before the due date provided in this chapter are delinquent. Taxes owed by a Service User subject
to Section 13.52.060 are delinquent if not paid on or before the due date. Should the due date
occur on a weekend or legal holiday, the return may be postmarked on the first regular working day
following a Saturday/Sunday or legal holiday.

(b) Penalties for delinquency in the remittance of any tax collected, or any deficiency determination
thereof, shall attach and be paid by the Person required to collect and remit at the rate of fifteen

(15%) percent of the total tax collected or imposed by the provisions of this chapter.

(c) The Tax Administrator shall have the power to impose additional penalties upon Persons
required to collect and remit taxes pursuant to the provisions of this chapter for fraud and
negligence in reporting or remitting at the rate of fifteen (15%) percent of the amount of the tax
collected, or as recomputed by the Tax Administrator.

(d) Every penalty imposed pursuant to the provisions of this section shall become a part of the tax
required to be remitted.

13.52.140 Actions to Collect.

(a)Any tax required to be paid by a Service User under the provisions of this chapter shall be
deemed a debt owed by the Service User to the City.Any such tax collected from a Service User
which has not been remitted to the Tax Administrator shall be deemed a debt owed to the City by
the Person required to collect and remit.Any Person owing money to the City under the provisions
of this chapter shall be liable to an action brought in the name of the City for the recovery of such
amount, including reasonable attorneys fees.

(b)Notwithstanding any other provision of this chapter, no interest or penalty may be imposed on a
Service Supplier for a delinquent remittance of tax collected under Section 13.52.060(d) unless
such delinquency is the result of the Service Supplier's gross negligence or intentional disregard of
the applicable tax collection and remittance obligations of this chapter.

13.52.150 Additional Power and Duties of Tax Collector.

(a)The Tax Administrator shall have the power and duty, and is hereby directed, to enforce each
and all of the provisions of this chapter.

(b)The Tax Administrator may adopt rules and regulations not inconsistent with provisions of this
chapter for the purpose of carrying out and enforcing the payment, collection and remittance of the
taxes herein imposed.A copy of such rules and regulations shall be on file in the Tax
Administrator's office.

(c)The Tax Administrator may make administrative agreements to vary from the strict requirements of this chapter so that collection of any tax imposed herein may be made in conformance with the billing procedures of a particular Service Supplier (or Service User subject to Section 13.52.060) so long as said agreements result in the collection of the tax in conformance with the general purpose and scope of this chapter.A copy of each such agreement shall be on file in the Tax Administrator's office.

(d)The Tax Administrator, or the Tax Administrator's designee, shall provide prompt written notice to all Service Suppliers of any change in the city's boundaries following any annexation or other change in the City's boundaries.Said notice shall set forth the revised boundaries by street and address and shall include a copy of the final annexation order from the Local Agency Formation Commission.

13.52.160 Assessment--Administrative Remedy.

(a)Whenever the Tax Administrator determines that a Service User has deliberately withheld the amount of the tax owed by the Service User from the tax, or whenever the Tax Administrator deems it in the best interest of the City, the Tax administrator may relieve such Person of the obligation to collect the taxes due under this chapter from certain named Service Users for specific billing periods.Whenever the Service User has filed to pay the amount of tax owed for a period of two or more billing periods, the Service Supplier shall be relieved of the obligation to collect taxes due.The Service Supplier shall provide the City with the names and addresses of such Service Users and the amounts of taxes owed under the provisions of this chapter.

(b)The Tax Administrator shall notify the non-paying Service User that he has assumed the responsibility to collect the taxes due for the stated periods and demand payment of such taxes.
The notice shall be served on the Service User by personal delivery or by deposit of the notice in the United States mail, postage prepaid thereon, addressed to the Service User at the address to which billing was made by the Person required to collect the tax; or, should the Service User have

changed his or her or its address, to the Service User's last known address.If the Service User fails
to remit the tax to the Tax Administrator within fifteen (15) days from the date of the service of the
notice upon the Service User, which shall be the date of mailing if service was not accomplished in
person, a penalty of twenty-five (25%) percent of the amount of the tax set forth in the notice shall
be imposed, but not less than Five and No/100ths Dollars ($5.00).The penalty shall become a part
of the tax required to be paid.

(c)The Tax Administrator may make an assessment for taxes not paid or remitted by a Person
required to pay or remit.A notice of the assessment shall refer briefly to the amount of the taxes
and penalties imposed and the time and place when such assessment shall be submitted to the
City Council for confirmation or modification.The City Clerk shall mail a copy of such notice to the
Service Supplier and to the Service User at least ten (10) days prior to the date of the hearing and
shall post such notice for at least five (5) continuous days prior to the date of the hearing.Any
interested party having any objections may appear and be heard at the hearing provided the
objection(s) of such interested party is filed in writing with the City Clerk prior to the time set for the
hearing.At the time fixed for considering such assessment, the City Council shall hear the same,
together with any objections filed as provided in this subsection, and thereupon may confirm or
modify such assessment by motion.

13.52.170 Records.

(a)It shall be the duty of every Person required to collect or self-collect and remit to the City any tax
imposed by this chapter to keep and preserve, for a period of three years, all records as may be
necessary to determine the amount of such tax as such Person may have been liable for the
collection of and remittance to the Tax Administrator, which records the Tax Administrator shall
have the right to inspect at all reasonable times.

(b)The Tax Administrator may request from a Person providing transportation services of gas or
electricity to Service Users within the City a list of the names and addresses of its transportation

customers within the City pursuant to Section 6354(e) of Chapter 2.5 of Division 3 of the California Public Utilities Commission.

13.52.180 Refunds.

Whenever the amount of any tax has been overpaid or paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this chapter, it may be refunded as provided in this section:

(a)The Tax Administrator may refund any tax that has been over paid or paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this chapter, provided that no refund shall be paid under the provisions of this section unless the claimant has submitted a written claim to the Tax Administrator within one year of the overpayment or erroneous or illegal collection of said tax.Such claim must clearly establish claimant's right to the refund by written records showing entitlement thereto.The submission of a written claim, which is acted upon by the City Council, shall be a prerequisite to a suit thereon. (See Government Code Section 935.) The City Council shall act upon the refund claim within the time period set forth in Government Code Section 912.4. If the City Council fails or refuses to act on a refund claim within the time prescribed by Government Code Section 912.4, the claim shall be deemed to have been rejected by the City Council on the last day of the period within which the City Council was required to act upon the claim as provided in Government Code Section 912.4. It is the intent of the City Council that the one year written claim requirement of this subsection be given retroactive effect; provided, however, that any claims which arose prior to the commencement of the one year claims period of this subsection, and which are not otherwise barred by a then applicable statute of limitations or claims procedure, must be filed with the Tax Administrator as provided in this subsection within ninety (90) days following the effective date of this chapter.

(b)Notwithstanding the notice provisions of subsection (a) of this section, a Service Supplier that has collected any amount of tax in excess of the amount of tax imposed by this chapter and actually due from a Service User (whether due to overpayment or to erroneous or illegal collection of said tax), may refund such amount to the Service User, or credit such amount to charges subsequently payable by the Service User to the Service Supplier, and claim credit for such overpayment against the amount of tax which is due upon any other monthly returns to the Tax Administrator, provided such credit is claimed in a return dated no later than one year from the date of overpayment or erroneous or illegal collection of said tax.The Tax Administrator shall determine the validity of the Service User's claim of credit, and the underlying basis for such claim.

(c) Notwithstanding other provisions of this section, whenever a Service Supplier, pursuant to an order of the California Public Utilities Commission or of a court of competent jurisdiction, makes a refund to a Service User of charges for past utility services, the taxes paid pursuant to this chapter on the amount of such refunded charges shall also be refunded to such Service User, and the Service Supplier shall be entitled to claim a credit for such refunded taxes against the amount of tax which is due upon the next monthly returns.In the event this ordinance is repealed, the amounts of any refundable taxes will be borne by the City.

13.52.190 Termination or Suspension of Utility Users Tax.

The Service Supplier shall, upon notification, terminate or suspend collection of any users tax imposed by this chapter commencing with the first full billing period which occurs after the effective date of termination or suspension of such tax by the City Council.

13.52.200 Collection of tax on new charges.

In the event that this chapter imposes a tax on a charge that was not subject to collection prior to September 1, 1994, the Tax Administrator may allow the Person responsible for collecting and remitting such tax a reasonable period of time to install and implement necessary billing changes to effect such collection, but in no event to exceed ninety (90) days from the date the charge first became subject to collection under this chapter.

Section II. Severability.If any section, subsection, subdivision, paragraph, sentence, clause or
phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such a decision
shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby
declares that it would have passed each section, subsection, subdivision, paragraph, sentence,
clause or phrase of this ordinance irrespective of the unconstitutionality or invalidity of any section,
subsection, subdivision, paragraph, sentence, clause or phrase.

Section III. Effective Date.This ordinance becomes effective after its final passage and adoption.

First read at a regular meeting of the Council of the City of Richmond, California, held August-E 22,
1994 , and finally passed and adopted at a regular meeting thereof held August-E 29, 1994 by
the following vote:

AYES:Councilmembers Washington, Niccolls,
Marquez, Anderson, McMillan, Griffin and Mayor Corbin
NOES: Councilmembers Rogers and Powers
ABSTENTIONS: None ABSENT:None
EULA M. BARNES CLERK OF THE CITY OF RICHMOND (SEAL)
Approved: LAVONNE NICCOLLS
Acting Mayor Approved as to form:
MALCOLM HUNTER City Attorney