

# CITY OF LYNNWOOD

## ORDINANCE NO. 2830

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, AMENDING SECTIONS 3.41.020 AND 3.41.030 OF THE LYNNWOOD MUNICIPAL CODE RELATING TO CITY UTILITY TAXES; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

WHEREAS, the City Council is authorized by Chapters 35.21 and 35.22 RCW to collect excise taxes from persons conducting business within the City; and

WHEREAS, the City Council has determined that the public interest is best served by imposing new utility taxes; now therefore

THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 3.41.020 of the Lynnwood Municipal Code is hereby amended as follows:

### **3.41.020 Definitions**

Where used in this chapter, the following words and terms shall have the meanings as defined in this section, unless, from the context, a more limited or different meaning is clearly defined or apparent:

- A. "Cable television service" means the one-way transmission to subscribers of video programming and other programming service and subscriber interaction, if any, that is required for the selection or use of the video programming or other programming service.
- B. "Cellular telephone service" means a one - or two-way telecommunications system used to transmit voice and/or data-based signals or content in whole, or substantially in part, on wireless radio communications, and which is not subject to regulation by the Washington Utilities and Transportation Commission (WUTC). This includes cellular mobile service, pager services, specialized mobile radio (SMR), personal communications services (PCS), and any other evolving wireless radio communications technology which accomplishes a purpose similar to cellular mobile service, including paging. Cellular telephone service shall not include competitive telephone service.
- C. "Director" shall mean the director of administrative services or designee.
- D. "Electricity" means the sale of electrical power.
- E. "Gas distribution business" means the business of selling, furnishing, or transmitting gas, whether manufactured or natural.
- F. "Gross income" means the value proceeding or accruing from the sale of tangible property or service, and receipts (including all sums earned or charged, whether received

or not) by reason of the investment of capital of the business engaged in, including rentals, royalties, fees or other emoluments, receipts or proceeds from the use or sale of real property or any interest therein, and proceeds from the sale of notes, bonds, mortgages or other evidences of indebtedness or stock and the like and without any deduction on account of the cost of the property sold, the cost of materials used, labor costs, interest or discount paid, taxes, or any expense whatsoever, and without any deduction on account of losses.

G. "Person" or "persons" means natural persons of either gender, firms, co-partnerships, corporations, municipal corporations, and other associations of natural persons whether acting by themselves or by servants, agents or employees.

H. "Pager service" means service provided by means of an electronic device which has the ability to send or receive voice or digital messages transmitted through the local telephone network, via satellite or any other form of voice or data transmission.

I. "Sewerage Operation" means operation of sanitary sewer facilities, including collection, treatment and disposal facilities, and combined sanitary and surface water drains and outfalls.

J. "Solid waste service" means the collection and disposal of putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.

K. "Water Distribution Operation" means the business of operating a plant or system for the distribution of water for hire or sale.

L. "Taxpayer" means any person liable for the license fee or taxes imposed by this chapter.

M. "Tax year" or "taxable year" means the 12-month period commencing January 1st and ending December 31st of the same year.

Section 2. Section 3.41.030 of the Lynnwood Municipal Code is hereby amended as follows:

**3.41.030 Businesses subject to tax.**

There is hereby levied upon all persons engaged in business activities taxable under this chapter a tax in the amounts to be determined by the application of the respective rates against gross income of such taxpayer. Taxpayers engaged in or carrying on the business shall be charged with collection of the tax as a condition of doing business, and the tax shall be levied thereafter upon their subscribers at the rate set forth below.

A. Commencing January 1, 2009, upon every person engaged in or carrying on a telephone business, as defined in RCW 82.04.065, as said statute presently exists or is hereafter amended, a tax equal to six percent of the total gross income, including revenues for intrastate toll, derived from the operation of such business within the city. To the extent permitted by applicable federal and Washington State law, any

telecommunications services provided by a cable operator (as defined in 47 U.S.C. Section 522(5)) or other persons over cable television facilities owned or controlled by a cable operator shall be taxable hereunder.

B. Upon every person engaged in or carrying on the sale of cellular telephone service, a tax equal to six percent of the total gross income derived from the operation of such business within the city.

C. Upon every person engaged in the business of operating or providing pager service, a tax equal to six percent of the total gross income derived from the operation of such business within the city.

D. Commencing on July 1, 2010, upon every person engaged in or carrying on the business of cable television service, a tax equal to four percent (4%) of the total gross income derived from the operation of such business within the city.

E. Commencing on January 1, 2010, upon every person engaged in or carrying on the business of solid waste collection, a tax equal to six percent of the total gross income derived from the operation of such business within the city.

F. Commencing on July 1, 2010, upon every person engaged in or carrying on the business of electricity service, a tax equal to four percent (4%) of the total gross income derived from the operation of such business within the city.

G. Commencing on July 1, 2010, upon every person engaged in or carrying on the business of gas distribution, a tax equal to four percent (4%) of the total gross income derived from the operation of such business within the city.

H. Commencing on July 1, 2010, upon every person engaged in or carrying on the business of sewerage operation (which includes surface water drains and outfalls), a tax equal to four percent (4%) of the total gross income derived from the operation of such business within the city.

I. Commencing on July 1, 2010, upon every person engaged in or carrying on the business of water distribution operation, a tax equal to four percent (4%) of the total gross income derived from the operation of such business within the city.

Section 3. Referendum Procedure. The provisions of this Ordinance are subject to the referendum procedure as follows:

A. A referendum petition seeking to repeal this Ordinance shall be filed with the Finance Director/City Clerk, who shall be designated the person to receive petitions of all types, within seven days of the passage by the City Council of this Ordinance or publication thereof, whichever is later.

B. Within ten days, the Finance Director/City Clerk shall confer with the petitioner concerning the form and style of the petition, issue an identification number for the petition, and cause to be written a ballot title for the measure.

C. The ballot title shall be posed as a question, so that an affirmative answer to the question and an affirmative vote on the measure results in the tax or tax rate increase being imposed, and a negative answer to the question and a negative vote on the measure results in the tax or tax rate increase not being imposed. The petitioner shall be notified of the identification number and ballot title within this ten-day period.

D. After notification of the identification number and ballot title, the petitioner shall have thirty days in which to secure on petition forms the signatures of not less than fifteen percent of the registered voters of the City and to file the signed petitions with the Finance Director/City Clerk.

E. Each petition form shall contain the ballot title and the full text of the measure to be referred. The Finance Director/City Clerk shall verify the sufficiency of the signatures on the petitions. If sufficient valid signatures are properly submitted, the Finance Director/City Clerk shall cause the referendum measure to be submitted to the City voters at the next election within the City or at a special election as provided pursuant to RCW 35.17.260(2).

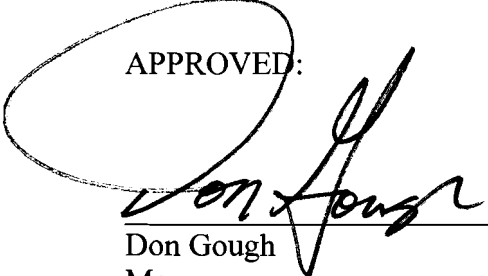
Section 4. Exclusive Procedure. Pursuant to RCW 35.21.706, the referendum procedure set forth in Section 3 above, shall be the exclusive referendum procedure for the utility tax imposed herein, and shall supersede the procedures, to the extent applicable, under Chapter 35A.11 and all other statutory provisions for initiative or referendum which might otherwise apply.

Section 5. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 6. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

PASSED BY THE CITY COUNCIL, the 19th day of April, 2010 and approved by the Mayor this 22<sup>nd</sup> day of April, 2010.

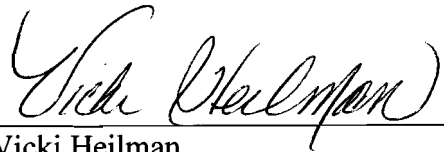
APPROVED:



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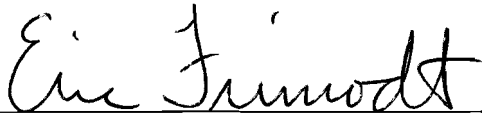
Don Gough  
Mayor

ATTEST/AUTHENTICATED:



\_\_\_\_\_  
Vicki Heilman  
Acting Finance Director

APPROVED AS TO FORM:



\_\_\_\_\_  
Eric Frimodt  
City Attorney

PASSED BY THE CITY COUNCIL: 4-19-10

PUBLISHED: 4-22-10

EFFECTIVE DATE: \_\_\_\_\_

ORDINANCE NUMBER: 2830