

1 **CITY OF LYNNWOOD**

2 ORDINANCE NO. _____

3 AN ORDINANCE OF THE CITY OF LYNNWOOD,
4 WASHINGTON, AMENDING SECTIONS 3.41.020 AND
5 3.41.030 OF THE LYNNWOOD MUNICIPAL CODE
6 RELATING TO CITY UTILITY TAXES; AND PROVIDING
7 FOR SEVERABILITY, AN EFFECTIVE DATE AND
8 SUMMARY PUBLICATION.

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

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

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

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

16 **3.41.020 Definitions**

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

20 A. "Cable television service" means the one-way transmission to subscribers of video
21 programming and other programming service and subscriber interaction, if any, that is
22 required for the selection or use of the video programming or other programming service.

23 B. "Cellular telephone service" means a one - or two-way telecommunications system
24 used to transmit voice and/or data-based signals or content in whole, or substantially in
25 part, on wireless radio communications, and which is not subject to regulation by the
26 Washington Utilities and Transportation Commission (WUTC). This includes cellular
27 mobile service, pager services, specialized mobile radio (SMR), personal
28 communications services (PCS), and any other evolving wireless radio communications
29 technology which accomplishes a purpose similar to cellular mobile service, including
30 paging. Cellular telephone service shall not include competitive telephone service.

31 C. "Director" shall mean the director of administrative services or designee.

32 D. "Electricity" means the sale of electrical power.

33 E. "Gas distribution business" means the business of selling, furnishing, or transmitting
34 gas, whether manufactured or natural.

35 FD. "Gross income" means the value proceeding or accruing from the sale of tangible
36 property or service, and receipts (including all sums earned or charged, whether received

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

8 GE. “Person” or “persons” means natural persons of either gender, firms, co-partnerships,
9 corporations, municipal corporations, and other associations of natural persons whether
10 acting by themselves or by servants, agents or employees.

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

14 I. “Sewerage Operation” means operation of sanitary sewer facilities, including
15 collection, treatment and disposal facilities, and combined sanitary and surface water
16 drains and outfalls.

17 JG. “Solid waste service” means the collection and disposal of putrescible and
18 nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish,
19 ashes, industrial wastes, demolition and construction wastes, abandoned vehicles or parts
20 thereof, and recyclable materials.

21 K. “Water Distribution Operation” means the business of operating a plant or system for
22 the distribution of water for hire or sale.

23 LH. “Taxpayer” means any person liable for the license fee or taxes imposed by this
24 chapter.

25 MH. “Tax year” or “taxable year” means the 12-month period commencing January 1st
26 and ending December 31st of the same year.

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

28 **3.41.030 Businesses subject to tax.**

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

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

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

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

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

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

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

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

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

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

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

29
30 Section 3. Referendum Procedure. The provisions of this Ordinance are subject to the
31 referendum procedure as follows:

32
33 A. A referendum petition seeking to repeal this Ordinance shall be filed with the
34 Finance Director/City Clerk, who shall be designated the person to receive petitions of all
35 types, within seven days of the passage by the City Council of this Ordinance or
36 publication thereof, whichever is later.

37
38 B. Within ten days, the Finance Director/City Clerk shall confer with the petitioner
39 concerning the form and style of the petition, issue an identification number for the
40 petition, and cause to be written a ballot title for the measure.

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2 C. The ballot title shall be posed as a question, so that an affirmative answer to the
3 question and an affirmative vote on the measure results in the tax or tax rate increase
4 being imposed, and a negative answer to the question and a negative vote on the measure
5 results in the tax or tax rate increase not being imposed. The petitioner shall be notified
6 of the identification number and ballot title within this ten-day period.
7

8 D. After notification of the identification number and ballot title, the petitioner shall
9 have thirty days in which to secure on petition forms the signatures of not less than
10 fifteen percent of the registered voters of the City and to file the signed petitions with the
11 Finance Director/City Clerk.
12

13 E. Each petition form shall contain the ballot title and the full text of the measure to
14 be referred. The Finance Director/City Clerk shall verify the sufficiency of the signatures
15 on the petitions. If sufficient valid signatures are properly submitted, the Finance
16 Director/City Clerk shall cause the referendum measure to be submitted to the City voters
17 at the next election within the City or at a special election as provided pursuant to RCW
18 35.17.260(2).
19

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

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

28 Section 6. Effective Date. This ordinance or a summary thereof consisting of the title shall be
29 published in the official newspaper of the City, and shall take effect and be in full force on _____
30 _____, 2010.
31

32 PASSED BY THE CITY COUNCIL, the 19th day of April, 2010 and approved by the
33 Mayor this _____ day of _____, 2010.

34 APPROVED:
35
36

37 _____
38 Don Gough
39 Mayor

1 ATTEST/AUTHENTICATED:

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6 _____
Vicki Heilman

7 Acting Finance Director

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11 APPROVED AS TO FORM:

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16 _____
Eric Frimodt

17 City Attorney

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19

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21 FILED WITH ADMINISTRATIVE SERVICES: _____

22 PASSED BY THE CITY COUNCIL: _____

23 PUBLISHED: _____

24 EFFECTIVE DATE: _____

25 ORDINANCE NUMBER: _____

1 **SUMMARY OF ORDINANCE NO. ____**

2
3 of the City of Lynnwood, Washington

4
5
6 On the ____ day of _____, 2010, the City Council of the City of Lynnwood,
7 Washington, passed Ordinance No. _____. A summary of the content of said ordinance, consisting
8 of the title, provides as follows:

9
10 AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON,
11 AMENDING SECTIONS 3.41.020 AND 3.41.030 OF THE
12 LYNNWOOD MUNICIPAL CODE RELATING TO CITY UTILITY
13 TAXES; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE
14 DATE AND SUMMARY PUBLICATION.

15
16 The full text of this Ordinance will be mailed upon request.

17
18 DATED this _____ day of _____, 2010.

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20
21 _____
22 JOHN MOIR, FINANCE DIRECTOR