

ORDINANCE NO. 1856

AN ORDINANCE of the City of Washougal, Washington imposing a new or amending the existing utility occupation tax upon every person engaged in or carrying on the business of selling or furnishing utility services, and establishing a new minimum six percent utility occupation tax, including severability and an effective date.

WHEREAS, the City Council currently imposes a utility occupation tax of not less than six (6) percent upon every person engaged in or carrying on the business of selling or furnishing telephone, electric light and power, water, sewer, and commercial garbage collection and transfer service; and

WHEREAS, the City Council finds that there are various parks, streets and facilities projects and other needs of the City for which there is not adequate funding; and

WHEREAS, the City Council has determined that proceeds from a new six (6) percent utility occupation tax upon every person engaged in or carrying on the business of selling or furnishing cable television service could be used toward funding important parks, street and facilities projects and other needs of the City for which adequate funding is not available; and

WHEREAS, the City Council may only impose a utility occupation tax of six (6) percent upon every person engaged in or carrying on the business of selling or furnishing cable television service if a utility occupation tax of at least six (6) percent is also imposed upon every person engaged in or carrying on the business of selling or furnishing other utility services, to conform with the “uniformity rule” of 47 U.S.C. §542(g)(2)(a); and

WHEREAS, the City Council currently imposes a utility occupation tax of four (4) percent upon every person engaged in or carrying on the business of selling or furnishing gas service; and

WHEREAS, the City currently does not impose a utility occupation tax of not less than six (6) percent on every person engaged in or carrying on the business of selling or furnishing stormwater service within the City; and

WHEREAS, the City Council finds that adopting a utility occupation tax of six percent upon every person engaged in or carrying on the business of selling or furnishing gas for industrial, business, residential or other purpose would be equitable in light of other utility occupation taxes assessed by the City and will comply with the “uniformity rule”; and

WHEREAS, the City Council has determined that proceeds from a two percent increase in the utility occupation tax upon every person engaged in or carrying on the business of selling or furnishing gas for industrial, business, residential or other purpose could be used toward funding important parks, street and facilities projects and other needs of the City for which adequate funding is not available; and

WHEREAS, the City must impose a utility occupation tax of not less than six (6) percent on every person engaged in or carrying on the business of selling or furnishing stormwater service to comply with the “uniformity rule”; and

WHEREAS, the City Council has determined that there be no impact on stormwater utility customers' bills from the imposition of a six (6) percent utility occupation tax on stormwater services; and

WHEREAS, to ensure that there is no such impact, the stormwater utility occupation tax should not be additive to the stormwater utility rates and proceeds from the stormwater utility occupation tax upon stormwater service for industrial, business, residential or other purposes must ultimately be deposited into the Storm Water Utility Fund; and

WHEREAS, increases to sewer utility rates for the period 2019 through 2023 are currently being considered by the City Council and the Council desires that such rate increases not disproportionately impact the proceeds from the existing ten (10) percent utility occupation tax levied upon sewer services; and

WHEREAS, the Council has determined that for the period 2019 through 2023 the utility occupation tax upon the provision of sewer service should be reduced such that there be no more than a tax revenue increase of 4 percent gross annually than the collected amount of tax the prior year;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF WASHOUGAL DO HEREBY ORDAIN as follows:

Section I- Minimum Occupation Tax for Utility Services Established

A utility occupation tax of not less than six (6) percent upon every person engaged in or carrying on the business of selling or furnishing utility service for industrial, business, residential or other purposes is hereby established.

Section II- Adoption

Washougal Municipal Code Chapter 5.08.040 "Utility occupation tax – Amounts" is hereby amended as set forth in Exhibit "A", attached hereto and incorporated herein.

Section III-Stormwater Utility Occupation Tax Not Additive to Rates

That the stormwater utility occupation tax established in Section I of this ordinance shall not be additive to the stormwater rates in Chapter 14.32 of the Washougal Municipal Code.

Section IV- Use of Revenues

That proceeds from the stormwater utility occupation tax established in Section I of this ordinance shall be ultimately transferred into the Stormwater Utility Fund.

Section V– Severability

That if any clause, section, or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

Section VI - Effective Date

This ordinance shall become effective five (5) days following the date of its publication.

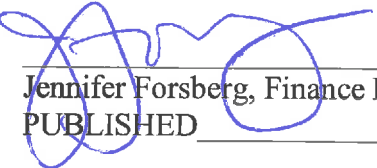
PASSED by the City Council of the City of Washougal at a regular meeting this **19th** of **November, 2018.**

City of Washougal



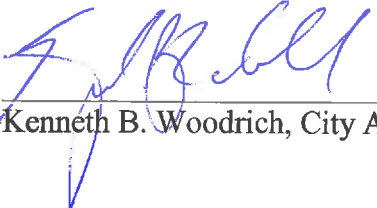
Mayor Molly Coston

ATTEST:



Jennifer Forsberg, Finance Director/City Clerk
PUBLISHED _____

APPROVED AS TO FORM:



Kenneth B. Woodrich, City Attorney

Exhibit "A"

Key: New language = underlined

Deleted language = ~~strikethrough~~

5.08.040 Utility occupational tax – Amounts.

Beginning June 1, 1989, there are levied and shall be collected by the city clerk bimonthly license fees or occupation taxes from the person on account of the business activities and in the amounts to be determined by the rates against gross income, as follows:

(1) Upon any telephone business there shall be levied a tax equal to six percent of the total gross operating revenues, excluding revenues from interstate toll, derived from the operation of such businesses within the city. Gross operating revenues for this purpose shall not include charges which are passed on to the subscribers by a telephone company pursuant to tariffs required by regulatory order to compensate for the cost to the company of the tax imposed by this chapter.

"Telephone business" means the business of providing access to a local telephone network, local telephone network switching service, toll service, cellular telephone service, coin telephone services, telephonic, video, data or similar communication or transmission for hire, via a local telephone network, toll line or channel, cable, microwave or similar communication or transmission system. The term includes cooperative or farmer line telephone companies or associations operating exchanges. "Telephone business" does not include the providing of competitive telephone service, nor providing of cable television service or other broadcast services by radio or television stations.

"Competitive telephone service" means the providing by any person of telecommunications equipment or apparatus, directory advertising and lease of telephone street directories or service, other than toll service, related to that equipment or apparatus such as repair or maintenance service, if the equipment or apparatus is of a type which may be provided by persons that are not subject to regulation as telephone companies under RCW Title 80 and for which a separate charge is made.

(2) Upon every person engaged in or carrying on the business of selling or furnishing electric light and power, or either, there shall be levied a tax equal to six percent of the total gross income from such business in the city.

(3) Upon every person engaged in or carrying on a business of selling or furnishing water for industrial, business, residential or other purposes there shall be levied a fee or tax equal to 10 percent of the total gross income from such business in the city.

Section V– Severability

That if any clause, section, or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

Section VI - Effective Date

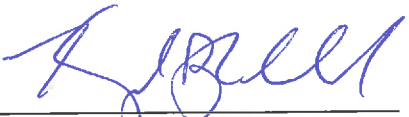
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Kenneth B. Woodrich, City Attorney

(4) Upon every person engaged in or carrying on the business of selling or furnishing gas for industrial, business, residential or other purposes there shall be levied a fee or tax equal to ~~four~~ six percent of the total gross income from such business in the city; provided, however, that in determining his gross income such person may exclude from his gross income any and all income received by him from the sale of gas to manufacturers at industrial rates, and any and all income received from the sale of merchandise in the retail trade.

(5) Upon every person engaged in or carrying on the business of selling or furnishing sewer service for industrial, business, residential or other purposes there shall be levied a fee or tax equal to the tax rate set forth below at Figure 1. Thereafter, the tax rate shall be 10 percent of the total gross income from such business in the city.

Figure 1

	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
<u>Sewer Utility Tax %</u>	<u>10.00%</u>	<u>9.23%</u>	<u>8.71%</u>	<u>8.22%</u>	<u>8.17%</u>	<u>8.12%</u>

(6) Upon every person engaged in or carrying on the business of commercial garbage collection and transfer there shall be levied a fee or tax equal to 10 percent of the gross income received from such business in the city.

(7) Upon every person engaged in or carrying on the business of selling or furnishing cable television service there shall be levied a tax equal to six percent of the total gross income from such business in the city.

(8) Upon every person engaged in or carrying on the business of selling or furnishing stormwater service for industrial, business, residential or other purposes there shall be levied a tax equal to six percent of the total gross income from such business in the city. All proceeds collected from this tax shall be deposited into the Stormwater Utility Fund.

