

**CITY OF KENMORE
WASHINGTON
ORDINANCENO. 23-0570**

AN ORDINANCE OF THE CITY OF KENMMORE, WASHINGTON, AMENDING SECTION 3.35.040 OF THE KENMORE MUNICIPAL CODE TO INCREASE THE UTILITY TAX LEVY ON THE PRIVILEGE OF CARRYING ON THE BUSINESS OF SELLING, FURNISHING, OR TRANSMITTING NATURAL GAS IN THE CITY; PROVIDING FOR REFERENDUM; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Kenmore desires to protect the future financial soundness of the City, minimize financial risk, and promote sound financial management; and

WHEREAS, the City Council is authorized by Chapters 35.21 and 35A.82 RCW, among other laws, to establish and collect excise taxes from persons conducting business within the City, including utility businesses; and

WHEREAS, the City Council has previously established and levied excise taxes on the privilege of conducting electrical energy, natural gas, telephone, surface water management, cellular telephone and cable television businesses within the City, as stated in Chapter 3.35 of the Kenmore Municipal Code (“KMC”); and

WHEREAS, the United Nations has declared, “Climate Change is the defining issue of our time, and we are at a defining moment. From shifting weather patterns that threaten food production, to rising sea levels that increase the risk of catastrophic flooding, the impacts of climate change are global in scope and unprecedented in scale. Without drastic action today, adapting to these impacts in the future will be more difficult and costly.” and

WHEREAS, in 2021 and 2022, the City conducted extensive public outreach and research to develop a Climate Action Plan in order to do the City’s part to reduce greenhouse gas emissions and mitigate the effects of climate change; and

WHEREAS, on May 16, 2022, the Kenmore City Council unanimously voted to adopt the first City of Kenmore Climate Action Plan; and

WHEREAS, the Climate Action Plan establishes actions the City and community can take to reduce greenhouse gas (GHG) emissions and reach carbon neutrality by 2050; and

WHEREAS, the Climate Action Plan also provides strategies to adapt to future climate change impacts. The strategies and actions in the CAP include five focus areas: Buildings & Energy, Transportation & Land Use, Consumption & Materials Management, Natural Systems & Water Resources, and Community Resilience & Wellbeing; and

WHEREAS, key goals in the CAP are a 50% reduction in Greenhouse Gas Emissions by 2030, a 75% reduction in Greenhouse Gas Emissions by 2040, and carbon neutrality by 2050; and

WHEREAS, achieving these ambitious and urgent goals will require a significant investment of time and financial resources beyond what can be accomplished with the City's existing financial resources; and

WHEREAS, the World Resources Institute has stated, "Climate change poses the greatest threat to those least responsible for it, including low-income and disadvantaged populations, women, racial minorities, marginalized ethnic groups and the elderly;" and

WHEREAS, Kenmore is no exception to the acute affordable housing and homeless crises that are gripping our region; and

WHEREAS, vulnerable and marginalized populations are suffering the most severe of the impacts of lack of affordable housing and homelessness; and

WHEREAS, as a result, housing assistance and providing services for those in need is important in responding to these crises; and

WHEREAS, the City desires to better connect its residents with services and resources to help them with their housing, health, and other critical needs; and

WHEREAS, addressing these housing and human services needs will require investment of time and financial resources beyond what can be accomplished with the City's existing financial resources; and

WHEREAS, in November 2022, the City Council directed City staff to bring forward a plan to fund and address the housing and human services needs as well as implementing the Climate Action Plan, and staff presented this plan in detail at the January 23, 2023 City Council meeting; and

WHEREAS, at the January 23, 2023 City Council meeting, the City Council directed staff to bring forward ordinances for funding sources for implementing the Climate Action Plan and addressing Housing & Human Services; and

WHEREAS, one of those proposed funding sources is to increase the natural gas utility tax; and

WHEREAS, the City Council desires to amend certain section(s) in Chapter 3.35 KMC to increase the utility tax on the business of selling, furnishing, or transmitting natural gas within the City from four percent (4%) to six percent (6%) of the total gross income of said business, in accordance with the provisions of Chapter 3.35 KMC; and

WHEREAS, RCW 35.21.870 authorizes the City Council to increase the tax on the privilege of providing a natural gas utility business from four percent (4%) to six percent (6%) by way of councilmanic action; and

WHEREAS, the City Council has determined that the provisions of this Ordinance are in the best interests of the City, are necessary to implement the City's goals for implementing the Climate Action Plan and addressing Housing & Human Services needs, and will protect and promote the public health, safety and general welfare;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON ORDAINS AS FOLLOWS:

Section 1. Amendment. The City Council amends Section 3.35.040 of the Kenmore Municipal Code to read as follows:

3.35.040 Occupations subject to tax -- Amount.

There is levied upon, and shall be collected from, a person, because of certain business activities engaged in or carried on in the City, taxes in the amount to be determined by the application of rates given against gross income as follows:

- A. Upon a person engaged in or carrying on the business of selling, furnishing, or transmitting electric energy, a tax equal to four percent of the total gross income from such business in the City during the period for which the tax is due;
- B. Upon a person engaged in or carrying on the business of selling, furnishing, or transmitting natural gas, a tax equal to ~~four~~six percent of the total gross income from such business in the City during the period for which the tax is due;
- C. Upon a person engaged in or carrying on the business of selling, furnishing, or transmitting telephone service, a tax equal to six percent of the total gross income from such business in the City during the period for which the tax is due;
- D. Upon a person engaged in or carrying on the business of selling, furnishing, or transmitting cellular telephone service, a tax equal to six percent of the total gross income from such business in the City during the period for which the tax is due;
- E. Upon a person engaged in or carrying on the business of selling, furnishing, or transmitting cable television service, a tax equal to six percent of the total gross income from such business in the City during the period for which the tax is due; and
- F. Upon a person engaged in or carrying on the business of selling or furnishing surface water utility service, a tax equal to six percent of the total gross income from such business in the City during the period for which the tax is due.

Section 2. Referendum. This Ordinance shall be subject to the referendum procedures and provisions stated in KMC 3.35.150 and KMC 3.35.160, copies of which are attached to this

Ordinance as **Attachment A**; provided, that a referendum petition seeking to repeal this Ordinance shall be filed with the city clerk within seven days of passage by the City Council of this Ordinance, or publication thereof, whichever is later. In accordance with RCW 35.21.706 and KMC 3.35.160, the referendum procedure stated in KMC 3.35.150 and this Section 2 shall be the exclusive referendum procedure for the increase in utility tax imposed by this Ordinance, and shall supersede the procedures, to the extent applicable, under Chapters 35.17 and 35A.11 RCW and all other statutory provisions for initiative and referendum which might otherwise apply.

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance shall 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 4. Effective Date. This Ordinance shall be published in the City's newspaper of record, and shall take effect and be in full force on May 1, 2023, which date shall be at least five (5) days after the date of publication, and at least sixty (60) days from the enactment of this ordinance.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE
13th DAY OF ^{Nigel G. Herbig} February, 2023.

CITY OF KENMORE


Nigel G. Herbig (Feb 14, 2023 17:36 PST)
Nigel Herbig, Mayor

ATTEST/AUTHENTICATED:


Michelle Kang (Feb 14, 2023 15:33 PST)
Michelle Kang, Deputy City Clerk

Approved as to form:


Dawn Reitan (Feb 14, 2023)
Dawn Reitan, City Attorney

FILED WITH THE CITY CLERK: 01/20/2023
PASSED BY THE CITY COUNCIL: 02/13/2023
ORDINANCE NO.: 23-0570
DATE OF PUBLICATION: 02/17/2023
EFFECTIVE DATE: 05/01/2023

ATTACHMENT A

KMC 3.35.150 and KMC 3.35.160

3.35.150 Referendum procedure.

The provisions of this chapter are subject to the referendum procedure as follows:

A. A referendum petition seeking to repeal the ordinance codified in this chapter shall be filed with the 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 the ordinance codified in this chapter or publication thereof, whichever is later.

B. Within 10 days, the 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 10-day period.

D. After notification of the identification number and ballot title, the petitioner shall have 30 days in which to secure on petition forms the signatures of not less than 15 percent of the registered voters of the City and to file the signed petitions with the city clerk.

E. Each petition form shall contain the ballot title and the full text of the measure to be referred. The city clerk shall verify the sufficiency of the signatures on the petitions. If sufficient, valid signatures are properly submitted, the city clerk shall cause the referendum measure to be submitted to the City voters at a general or special election held on one of the dates provided in RCW [29.13.010](#), as determined by the city council, which election shall not take place later than 120 days after the signed petition has been filed with the city clerk. [Ord. 98-0037 § 15.]

3.35.160 Exclusive procedure.

Pursuant to RCW [35.21.706](#), the referendum procedure set forth in KMC [3.35.150](#) shall be the exclusive referendum procedure for the utility tax imposed herein, and shall supersede the procedures, to the extent applicable, under Chapters [35.17](#) and [35A.11](#) RCW and all other statutory or charter provisions for initiative or referendum which might otherwise apply. [Ord. 98-0037 § 16.]












Ordinance Natural Gas Utility Tax Increase

Final Audit Report

2023-02-15

Created:	2023-02-14
By:	Michelle Kang (mkang@kenmorewa.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAISRI5Non7YO2afRQNKW-6gDJId_xuE7B

"Ordinance Natural Gas Utility Tax Increase" History

-  Document created by Michelle Kang (mkang@kenmorewa.gov)
2023-02-14 - 11:30:32 PM GMT
-  Document emailed to nherbig@kenmorewa.gov for signature
2023-02-14 - 11:33:11 PM GMT
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2023-02-14 - 11:33:11 PM GMT
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2023-02-14 - 11:33:11 PM GMT
-  Document e-signed by Michelle Kang (mkang@kenmorewa.gov)
Signature Date: 2023-02-14 - 11:33:31 PM GMT - Time Source: server
-  Email viewed by Dawn Reitan (dreitan@insleebest.com)
2023-02-14 - 11:33:47 PM GMT
-  Document e-signed by Dawn Reitan (dreitan@insleebest.com)
Signature Date: 2023-02-14 - 11:34:11 PM GMT - Time Source: server
-  Email viewed by nherbig@kenmorewa.gov
2023-02-15 - 1:35:53 AM GMT
-  Signer nherbig@kenmorewa.gov entered name at signing as Nigel G. Herbig
2023-02-15 - 1:36:47 AM GMT
-  Document e-signed by Nigel G. Herbig (nherbig@kenmorewa.gov)
Signature Date: 2023-02-15 - 1:36:49 AM GMT - Time Source: server
-  Agreement completed.
2023-02-15 - 1:36:49 AM GMT



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