

ORDINANCE NO. 012-17

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON,
AMENDING THE GROSS EARNINGS – EXCISE TAX PROVISIONS OF
CHAPTER 5.68 (“NATURAL GAS FRANCHISE”) OF THE PORT
ORCHARD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY;
AND SETTING AN EFFECTIVE DATE.**

WHEREAS, on June 24, 2014, the City Council adopted Ordinance No. 010-14 granting Cascade Natural Gas Corporation (“CNG”) a franchise to provide for the distribution and sale of natural gas in the City of Port Orchard, as codified in chapter 5.68 of the Port Orchard Municipal Code (“POMC”); and

WHEREAS, POMC 5.68.120 provides that the franchise rights granted are conditioned upon the monthly payment by CNG to the city of an excise tax consisting of two percent (2%) of its gross earnings from the sale of natural gas in the city, as compensation and as consideration for the use of the public right-of-way; and

WHEREAS, pursuant to POMC 5.68.120, the city has the right, upon adequate notice to CNG, to increase the excise tax CNG pays on its gross earnings up to the maximum amount allowed by law; and

WHEREAS, administrative costs accrue to the city for permitting, license, and franchise, to inspect plans and construction, and the preparation of detailed statements that assure the city maintains safe, healthy, productive, and aesthetically and culturally pleasing surroundings without environment degradation, and public works, clerk, legal, and finance have responsibilities resulting in expenses associated with the administration of the franchise agreement; and

WHEREAS, the City Treasurer has provided adequate written notice to CNG of the city’s intent to increase this excise tax; and

WHEREAS, pursuant to RCW 35.21.870, the maximum amount that the city may impose on the privilege of conducting a natural gas business as an excise tax, without the prior approval of a majority of the voters of the city, is six percent (6%) of CNG’s gross earnings; and

WHEREAS, pursuant to RCW 35.21.865, a change in this excise tax rate may not take effect before the expiration of sixty (60) days following the enactment of the ordinance establishing the change; now, therefore,

**THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DO ORDAIN AS
FOLLOWS:**

SECTION 1. Port Orchard Municipal Code Section 5.68.120 is hereby amended to read as follows:

5.68.120 Gross earnings – Excise tax.

The right and privileges hereby granted are upon condition that the CNG, its successors or assigns, shall pay, as compensation and as a consideration for the use of the streets, avenues, alleys, and public grounds of the city, for the purposes herein designated, the full sum and amount of six percent (6%) of its gross earnings from the sale of gas in the city, monthly into the treasury of the city for the use and benefit of the city. CNG's payment of the compensation shall be made on or before the last day of each month following the month in which the tax accrued from the granting of this franchise. And for the purpose of ascertaining the gross earnings upon which payment shall be made, as aforesaid, an accurate account of such earnings shall be kept by CNG, and an abstract and account thereof furnished by it to the city treasurer of the city on or before the last day of each month following the month in which the tax accrued, the truth of which abstract shall be verified by affidavit of CNG. For the purpose of verification of such statements, the books of CNG shall be at all times opened for the inspection of such officer, person or persons as may be appointed for that purpose by the city. And for the purpose of securing to the city the payment of the aforesaid per centum, the city shall have a lien for the payment of the said per centum and the same shall be charged against all of the property, estate and effects of the said company whatsoever, real, personal or mixed, and may be enforced by the city by civil action. But nothing contained herein shall be held to impair the rights of the city in enforcing the terms and conditions of this franchise. The city reserves the right, upon adequate notice to CNG, to increase the excise tax CNG pays on its gross earnings from the sale of gas in the city up to the maximum amount allowed by law. (Ord. 010-14 § 12).

SECTION 2. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful 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 3. Publication. This Ordinance shall be published by an approved summary consisting of the title.

SECTION 4. Effective Date. This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law. The rate change will take effect sixty days thereafter.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the Clerk in authentication of such passage this 11th day of April 2017.



Robert Putaansuu, Mayor

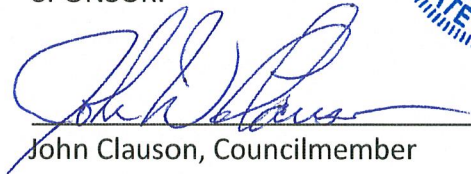


ATTEST:



Brandy Rinearson, CMC, City Clerk

SPONSOR:



John Clauson, Councilmember

APPROVED AS TO FORM:



Sharon Cates, City Attorney

PUBLISHED: April 21, 2017

EFFECTIVE DATE: April 26, 2017

**NOTICE OF CITY OF PORT ORCHARD
ORDINANCE**

The following is a summary of an Ordinance approved by the Port Orchard City Council at their regular Council meeting held April 11, 2017.

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Copies of Ordinance No. 012-17 are available for review at the office of the City Clerk of the City of Port Orchard. Upon written request a statement of the full text of the Ordinance will be mailed to any interested person without charge. Thirty days after publication, copies of Ordinance No. 012-17 will be provided at a nominal charge.

City of Port Orchard

Brandy Rinearson
City Clerk

Published: Friday, April 21, 2017