

**CITY OF WEST RICHLAND  
ORDINANCE NO. 22-16**

**AN ORDINANCE OF THE CITY OF WEST RICHLAND, WASHINGTON  
RELATING TO TAX REVENUE AND AMENDING SECTION 3.23.010  
"CREATED – SOURCE OF MONEY" AND SECTION 5.08.040 "APPLICABLE  
BUSINESSES" OF THE WEST RICHLAND MUNICIPAL CODE**

**WHEREAS**, the City Council of West Richland adopted Resolution 25-16 to place on the ballot a proposition which concerned replacing the current funding source for the library by eliminating and replacing the 2.5% utility tax on electric, telephone, and gas utility taxes approved by voters in 2003 with a maximum 2017 regular property tax increase of \$0.45 per \$1,000 of assessed value, for a total Citywide annual levy rate of \$2.00 per \$1,000 of assessed value. The maximum allowable levy rate in 2017 shall then serve as the base for subsequent levy limitations as provided by Chapter 84.55 RCW; and

**WHEREAS**, the tax was approved by an affirmative vote of the people on November 8, 2016; and

**WHEREAS**, it is necessary to properly account for the tax revenues and related expenditures;

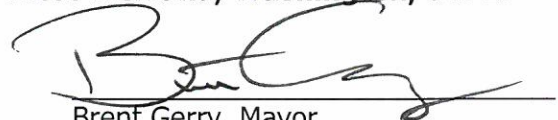
**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST RICHLAND, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1.** Section 3.23.010 "Created – Source of Money" of the West Richland Municipal Code is hereby amended beginning January 1, 2017 to read as shown on Attachment A.

**Section 2.** Section 5.08.040 "Applicable Businesses" Of the West Richland Municipal Code is hereby amended beginning January 1, 2017 to read as shown on Attachment B.

**Section 3.** This ordinance shall be in full force and effective five days following the date of its publication in the official newspaper of the City.


**PASSED by the City Council of the City of West Richland, Washington, this 29<sup>th</sup> day of November, 2016.**

  
Brent Gerry, Mayor

ATTEST:

  
Julie Richardson, City Clerk

APPROVED AS TO FORM:

  
Bronson Brown, City Attorney

**Chapter 3.23  
LIBRARY SERVICES FUND**

Sections:

[3.23.010](#) Created – Source of money.

[3.23.020](#) Use of funds.

**3.23.010 Created – Source of money.**

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A fund is created entitled "library services fund," into which shall be deposited all monies received by the city from the property tax levy lid lift as approved by a vote of the citizens of West Richland on November 8, 2016.

**3.23.020 Use of funds.**

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Monies received and deposited into the library services fund shall be used and expended exclusively for the operation and maintenance of the West Richland Library.

## Chapter 5.08 UTILITY OCCUPATION LICENSE TAX<sup>1</sup>

Sections:

- [5.08.010](#) Purpose.
- [5.08.020](#) Definitions.
- [5.08.030](#) Occupation license required.
- [5.08.040](#) Applicable businesses.
- [5.08.045](#) Allocation of income – Cellular telephone service.
- [5.08.050](#) Tax to be paid quarterly.
- [5.08.060](#) Credits on the tax.
- [5.08.070](#) Records required.
- [5.08.080](#) Failure to make timely payment of tax.
- [5.08.090](#) Tax paid in error.
- [5.08.100](#) Effect of annexations to the city.
- [5.08.110](#) Administration of rules.
- [5.08.120](#) Severability.

Prior legislation: Ords. 117 and 332.

### **5.08.010 Purpose.**

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The provisions of this chapter shall be deemed to be an exercise of the power of the city to license for revenue.

### **5.08.020 Definitions.**

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For the purposes of this chapter, unless otherwise required by the context:

“Cable television” means a system providing service pursuant to a franchise issued by the city of West Richland under the Cable Communications Policy Act of 1984 as amended (Public Law No. 98-549, [47](#) U.S.C. [521](#) (Supp.)) or any system that employs antennas, microwaves, wires, wave-guides, cables, coaxial cables, or other conductors, equipment or facilities designed, constructed, or used for the purpose of: (A) collecting and amplifying local and distant broadcast television signals and distributing and transmitting them; (B) transmitting original cablecast programming not received through television broadcast signals; or (C) transmitting television pictures, film and videotape programs not received through broadcast television signals, whether or not encoded or processed to permit reception by only selected receivers; provided, however, that “cable television service” shall not include entities that are subject to charges as “commercial TV stations” under [47](#) U.S.C. Section [148](#).

“Cellular telephone service” is a two-way voice and data telephone/telecommunications system based 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. The definition of “cellular mobile services” includes other wireless radio communications services such as 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.

## Attachment B

“City” means the city of West Richland, Washington.

“Competitive telephone service” means the providing by any person of telephone equipment, apparatus, or service, other than toll service, which is of a type which can 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.

“Gross operating revenues” means the value proceeding or accruing from the performance of the particular business involved, including operations and activities incidental thereto, but without any deduction on account of the cost of the commodity furnished or sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

1. “Competitive telephone service” as defined in this section is not included within the meaning of gross income.
2. “Gross operating revenues” does not include charges which are passed on to customers by the taxpayer pursuant to tariffs required by regulatory order to compensate for the cost to the company of tax imposed by this chapter.

“Person” or “persons” means individuals of either sex, firms, co-partnerships, corporations, and other associations of natural persons, whether acting by themselves or by servants, agents or employees, and shall include the water and sewer department of the city.

“Taxpayer” means any person required to pay the license fee or 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 services, or coin telephone services, or providing telephonic, video, data, or similar communications or transmission for hire, via a local telephone network, toll line or channel, or similar communication or transmission system. “Telephone business” does not include the providing of competitive telephone service, nor the providing of cable television service.

### **5.08.030 Occupation license required.**

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After January 1, 1982, no person, firm or corporation shall engage in or carry on any business, occupation, act or privilege for which a tax is imposed by WRMC [5.08.040](#) without first having obtained, and being the holder of, a license so to do, to be known as an occupation license. Each such person, firm or corporation shall promptly apply to the city finance director, or her/his designee, for such license upon such forms as the city finance director shall deem reasonably necessary to enable said clerk’s office to administer and enforce this chapter; and, upon acceptance of such application by the city finance director or her/his duly authorized designate, a license shall be issued to the applicant. Such occupation license shall be personal and nontransferable and shall be valid as long as the licensee shall continue in said business, occupation, act or privilege and shall comply with this chapter.

### **5.08.040 Applicable businesses.**

From and after January 1, 2000, unless otherwise indicated, a tax is hereby levied and shall be collected from every person, firm or corporation engaged in the following businesses within or partly within the corporate limits of the city, for the privilege of doing business as hereinafter defined:

- A. Upon any telephone business, there shall be levied a tax equal to six percent of the total gross operating revenues, including revenues from intrastate toll, derived from the operation of such business within the city.
- B. Upon any business selling or distributing electricity and electrical energy, there shall be levied a tax equal to six percent of the total gross operating revenues derived from sales of such electricity to ultimate users within the city; provided, however, that there shall not be any tax levied for the installation charges of electrical service units.

## Attachment B

C. Upon any business selling natural, manufactured or mixed gas for residential, commercial or industrial consumption, there shall be levied a tax equal to six percent of the gross operating revenues from such sales within the limits of the city; provided, however, that there shall not be any tax levied for the installation charges of gas service units.

D. Upon any business, public or private, selling domestic water via a public water supply and distribution system, there shall be levied a tax equal to 14 percent of the gross operating revenue from such sales within the limits of the city. In addition, an additional tax equal to one percent of the gross operating revenue from such sales shall be levied as of January 1, 2009, with the proceeds to be deposited into the city street fund to be expended in accordance with the purposes of that fund.

E. Upon any business, public or private, selling sanitary sewer services via a collection grid, there shall be levied a tax equal to 12.5 percent of gross operating revenue from such sales within limits of the city. This tax shall be levied and be collected on and after January 1, 2003. In addition, an additional tax equal to one percent shall be levied as of January 1, 2009, with the proceeds to be deposited into the city street fund to be expended in accordance with the purposes of that fund.

F. *Repealed by Ord. 5-15.*

G. Upon any business, public or private, selling solid waste management services, there shall be levied a tax equal to eight and one-half percent of all monies billed in accordance with the current solid waste collection service agreement. This tax shall be levied and be collected on and after January 1, 2015.

H. Upon any business, public or private, collecting and treating stormwater, there shall be levied a tax equal to six percent of the gross operating revenue from such revenues within the limits of the city. This tax shall be collected on and after July 22, 2012.

I. Cable Television. Upon every person engaged in or carrying on the business of transmitting television signals by means of a cable distribution system, commonly known as cable television or "CATV," a tax equal to six percent of the total gross income derived from such business in the city of West Richland. This tax shall be levied as of August 1, 2012.

### **5.08.045 Allocation of income – Cellular telephone service.**

A. Service Address. Payments by a customer for the telephone service from telephones without a fixed location shall be allocated among taxing jurisdictions to the location of the customer's principal service address during the period for which the tax applies.

B. Presumption. There is a presumption that the service address a customer supplies to the taxpayer is current and accurate, unless the taxpayer has actual knowledge to the contrary.

C. Roaming Phones. When the service is provided while a subscriber is roaming outside the subscriber's normal cellular network area, the gross income shall be assigned consistent with the taxpayer's accounting system to the location of the originating cell site of the call, or to the location of the main cellular switching office that switched the call.

D. Dispute Resolution. If there is a dispute between or among the city and another city or cities as to the service address of a customer who is receiving cellular telephone services and the dispute is not resolved by negotiation among the parties, then the dispute shall be resolved by the city and the other city or cities by submitting the issue for settlement to mediation and/or arbitration under the rules of the American Arbitration Association. Once taxes on the disputed revenues have been paid to one of the contesting cities, the cellular telephone service company shall have no further liability with respect to additional taxes, penalties, or interest on the disputed revenues so long as it promptly changes its billing records for further revenues to comport with the settlement facilitated by the mediation or arbitration process.

**5.08.050 Tax to be paid quarterly.**

The tax imposed by this chapter shall be due and payable in quarterly installments and remittance shall be made on or before the thirtieth day of the month next succeeding the end of the quarterly period in which the tax accrued. Such quarterly periods are as follows:

First Quarter            January, February, March;  
Second Quarter        April, May, June;  
Third Quarter           July, August, September;  
Fourth Quarter        October, November, December.

The first payment hereunder shall be made by April 30, 1982, for the three-month period ending March 31, 1982. On or before said due dates the taxpayer shall file with the city finance director a written return, upon such form and setting forth such information as the city finance director shall reasonably require, together with the payment of the amount of the tax. [Ord. 466 § 1, 1981].

**5.08.060 Credits on the tax.**

In computing said tax there shall be deducted from said gross operating revenues the following items:

- A. The amount of credit losses and uncollectibles actually sustained by the taxpayer;
- B. Amounts derived from transactions in interstate or foreign commerce or from any business which the city is prohibited from taxing under the Constitutions of the United States or the state of Washington.

**5.08.070 Records required.**

Each taxpayer shall keep records reflecting the amount of the gross operating revenues, and such records shall be open at all reasonable times to the inspection of the city finance director, or her/his duly authorized designate, for verification of said tax returns or for the fixing of the tax of a taxpayer who shall fail to make such returns on a timely basis.

**5.08.080 Failure to make timely payment of tax.**

If any taxpayer subject to this chapter shall fail to pay any tax or installment required by this chapter within 30 days after the due date thereof, there shall be added to such tax or installment due a penalty of 10 percent of the amount of such tax or installment, plus one percent per month for each month the tax remains unpaid, and any tax due under this chapter and unpaid, and all penalties thereon, shall constitute a debt to the city and may be collected by court proceedings, which remedy shall be in addition to all other remedies allowed by law.

**5.08.090 Tax paid in error.**

Any money paid to the city through error or otherwise not in payment of the tax imposed hereby or in excess of such tax shall, upon request of the taxpayer, be credited against any tax due or to become due from such taxpayer hereunder or, upon the taxpayer's ceasing to do business in the city, be refunded to the taxpayer.

**5.08.100 Effect of annexations to the city.**

Whenever the boundaries of said city are extended by annexation, all persons, firms and corporations subject to this chapter will be provided copies of all annexation ordinances by the city.

**5.08.110 Administration of rules.**

The mayor or his/her designate is hereby authorized to adopt, publish and enforce, from time to time, such rules and regulations for the proper administration of this chapter as shall be necessary, and it shall be a violation of this chapter to violate or to fail to comply with such rule or regulation lawfully promulgated hereunder.

**5.08.120 Severability.**

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The provisions of this chapter are declared to be separate and severable, and the invalidity of any section, subsection, provision, clause or portion of this chapter, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this chapter or the validity of its application to other persons or circumstances.

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Editor's Note: For statutory provisions on the state public utility tax, see Chapter [82.16](#) RCW.