

**ORDINANCE NO. 2016-039**

**AN ORDINANCE** relating to business regulations and utility taxes; amending Section 5.50.050 of Chapter 5.50 of the City of Yakima Municipal Code pertaining to outside utility tax "caps" on companies in the business of selling or furnishing natural gas, electric light or power, cellular telephone services and telephone services; and enacting new Section 5.50.055 of Chapter 5.50 of the City of Yakima Municipal Code establishing a brokered natural gas use tax; all to reduce the City's dependency on cash reserves and contribute to capital funding.

**BE IT ORDAINED BY THE CITY OF YAKIMA:**

Section 1. Section 5.50.050 of Chapter 5.50 of the City of Yakima Municipal Code is hereby amended to read as follows:

**5.50.050 Electric, telephone, and gas businesses.**

A. There are levied and shall be collected annual license fees or taxes against the persons on account of business activities, and in the amounts to be determined by the application of the rates herein prescribed, as follows:

1. Commencing October 1, 1994, upon every person engaged in or carrying on the business of selling or furnishing electric light or power, a fee or tax equal to six percent of the total gross revenue derived from such business in the city of Yakima.
2. Commencing July 1, 1989, upon every person engaged in carrying on a telephone business, a fee or tax equal to six percent of the total gross revenue derived from such business in the city of Yakima; provided, that such fee or tax be subject to the limitations prescribed by RCW 35.21.714; and provided further, that the city shall suspend collection of any franchise fee on a telephone business in excess of the rates of fees and taxes permitted under RCW 35.21.870(2), which rate is six percent.

Total gross revenue for this purpose shall not include charges which are passed on to the subscribers by a telephone business pursuant to tariffs required by regulatory order to compensate for the cost to the telephone business of the tax imposed by the ordinance codified in this section.

"Telephone business" as used herein means the business of providing access to a local telephone network, local telephone network switching service, toll service or coin telephone services, or providing telephonic, video, data or similar communication or transmission for hire, via a local telephone network, toll line or channel, or similar communication or transmission system. It includes cooperative or farmer line telephone companies or associations operating an exchange. "Telephone business" does not include the providing of "competitive telephone service" as defined herein below nor the providing of cable television service or cellular telephone service.

"Competitive telephone service" as used herein 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.

3. Commencing November 17, 2005, upon every person engaged in or carrying on the business of selling or furnishing natural gas for heat, power, light and other purposes, a fee or tax equal to six percent of the total gross revenue derived from such business in the city of Yakima as explained in subsection E of this section.

4. Commencing February 1, 1997, upon every person engaging in or carrying on the cellular telephone service business, a fee or tax equal to six percent of the total gross revenue derived from conducting such business within the city of Yakima, as indicated by billings and/or charges to Yakima customers.

"Cellular telephone service" as used herein means 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 service includes other wireless radio communications services such as specialized mobile radio (SMR), personal communications services (PCS), and any other evolving wireless radio communications technology that accomplishes a purpose similar to cellular mobile service. "Cellular telephone service" as used herein also means service provided by means of an electric device that has the ability to send or receive voice or digital messages transmitted through the local telephone network, via satellite, or any other form of voice or data transmission.

B. The minimum fee or tax on each such business activity shall not be less than two hundred fifty dollars per tax year.

C. Commencing February 8, 2017, the rates of tax set forth in subsection A of this section shall be measured against a maximum of the first eight thousand dollars of the total gross revenue attributable to selling or furnishing telephone services described in the definition of "telephone business" contained herein, selling or furnishing cellular telephone services described in the definition of "cellular telephone service" contained herein to any one customer in any one calendar month or fraction thereof.

D. Commencing February 8, 2017, the first four percent of the tax set forth in subsection A of this section shall be measured against a maximum of the first eight thousand dollars of the total gross revenue attributable to selling or furnishing electric light or power to any one customer in any one calendar month or fraction thereof; two percent of the tax set forth in subsection A of this section shall be measured against the total gross revenue attributable to selling or furnishing electric light or power.

E. Commencing February 8, 2017, the first four percent of the tax set forth in subsection A of this section shall be measured against a maximum of the first eight thousand dollars of the total gross revenue attributable to selling or furnishing natural gas to any one customer in any one calendar month or fraction thereof; two percent of the tax set forth in subsection A of this section shall be measured against the total gross revenue attributable to selling or furnishing natural gas.

Section 2. Chapter 5.50 of the Yakima Municipal Code is hereby amended to add new Section 5.50.055 which provides as follows:

**5.50.055 Brokered Natural Gas Tax.**

**A. Imposed.** There is hereby levied and there shall be collected from every person in this city a use tax for the privilege of using natural gas or manufactured gas within the city as a consumer.

**B. Rate.** The tax shall be imposed in an amount equal to the value of the article used by the taxpayer multiplied by the rate in effect for the tax on the natural gas businesses under RCW 35.21.870 within the city under YMC 5.50.050(E). The value of the article used does not include any amounts that are paid for the hire or use of a natural gas business in transporting the gas subject to tax under this subsection if those amounts are subject to tax under RCW 35.21.870.

**C. Exemptions.** The tax imposed under this chapter shall not apply to the use of natural or manufactured gas if the person who sold the gas to the consumer has paid a tax under RCW 35.21.870 with respect to the gas for which exemption is sought under this section.

**D. Credits.** There shall be a credit against the tax levied under this section in an amount equal to any tax paid by:

1. The person who sold the gas to the consumer when that tax is a gross receipts tax similar to that imposed pursuant to RCW 35.21.870 by another state with respect to the gas for which a credit is sought under this section; or
2. The person consuming the gas upon which a use tax similar to the tax imposed by this section was paid to another state with respect to the gas for which a credit is sought under this subsection.


**E. Administration and collection.** The use tax hereby imposed shall be paid by the consumer. The administration and collection of the tax hereby imposed shall be pursuant to RCW 82.14.050.

**F. Contract execution.** The City Manager is authorized to execute a contract, and any renewals thereof, with the State Department of Revenue for the administration and collection of the tax imposed by this section. The city attorney shall approve the form and content of such contract.

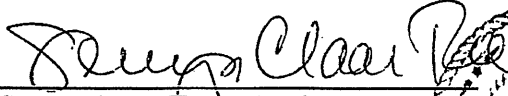
Section 3. This ordinance shall be in full force and effect 60 days after its passage, approval, and publication as provided by RCW 35.21.865 and by the City Charter.

Section 4. The referendum provisions and procedures set forth in YMC 5.50.205 shall apply to this Ordinance.

PASSED BY THE CITY COUNCIL, signed and approved this 6<sup>th</sup> day of December, 2016.

  
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Kathy Coffey, Mayor

ATTEST:

  
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Sonya Claar Tee, City Clerk



Publication Date: December 9, 2016

Effective Date: February 7, 2017