

ORDINANCE NO. 24-1304

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST PARK, WASHINGTON, ESTABLISHING NEW REGULATIONS REGARDING SOLID WASTE UTILITY TAX; PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City Council has determined that there is projected to be a deficit balance in the General Government Funds by 20__, and ; and

WHEREAS, the City has availed itself of appropriate revenue sources currently authorized, and has reduced expenditures in the General Fund, but ongoing expenses continue to rise in excess of ongoing revenues; and

WHEREAS, the basic City service levels could suffer a reduction without a new source of revenue; and

WHEREAS, implementation of a solid waste utility tax measured by gross income from customers is expected to generate revenue to help maintain current levels of City services, and

WHEREAS, the City Council has determined the public interest is best served by the implementation of a solid waste utility tax,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE FOREST PARK, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. AMENDMENTS. Lake Forest Park Municipal Code Chapter 3.18, "Utility Tax" is hereby amended to read as follows.

3.18.010 Imposed.

There is hereby imposed a "utility tax," which is levied upon the privilege of conducting an electrical energy, natural gas, telephone, cellular telephone, ~~or~~-pager service, or solid waste collection business within the city of Lake Forest Park.

3.18.020 Definitions

Unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

A. "Cellular telephone service" means any two-way voice and data telephone or similar communications system based in whole or in substantial part on wireless radio communications, including cellular mobile service, and which is not subject to regulation by the Washington State Utilities and Transportation Commission. Cellular mobile service includes other wireless radio communications services including specialized mobile radio, pagers, personal communications services, and other wireless radio communications technology evolving after the effective date of the ordinance codified in this chapter that accomplishes a purpose substantially similar to cellular mobile service.

B. "Finance Director" means the Finance Director of the City of Lake Forest Park, Washington, or his or her designee.

~~CB. "Gross income" means the value proceeding or accruing from the performance of the particular business involved, excluding receipts or proceeds from the use or sale of tangible property and real property or any interest therein, proceeds from the sale of notes, bonds, mortgages or other evidence of indebtedness, or stock and the like, receipts from operations incidental to the performance of the particular business involved, and with a deduction on the amount of credit loss and uncollectibles actually sustained.~~

"Gross Income" means the value proceeding or accruing from the performance of the particular business involved, including gross proceeds of sales, compensation for the rendition of services, and receipts (including all sums earned or charged, whether received or not) by reason of investment in the business engaged in (excluding rentals, receipts or proceeds from the use or sale of real property or any interest therein and proceeds from the sale of notes, bonds, mortgages or other evidences of indebtedness, or stocks and the like), all without any deduction on account of the cost of property sold, the cost of materials used, labor costs, taxes, interest or discount paid, delivery costs or any expenses whatsoever, and without any deduction on account of losses.

~~C. "Mayor" means the elected mayor of the city of Lake Forest Park, Washington, or his or her designee.~~

D. "Natural gas" means the business of selling, furnishing, or transmitting gas, whether manufactured or natural.

E. "Person" means any person, firm, corporation, association, or entity of any type engaged in a business subject to taxation under this chapter.

F. "Solid waste" means all putrescible and nonputrescible solid and semi-solid wastes, including but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction waste, abandoned vehicles or parts thereof, and recyclable materials.

G. "Solid waste collection business" means every person who receives solid waste or recyclable materials for transfer, storage, or disposal, including but not limited to, all collection services, public or private solid waste disposal sites, transfer stations, and similar operations.

HF. "Telephone business" means the business of providing access to a local telephone network, local telephone network switching service, toll service, coin telephone services, telephonic, video, data, pagers, 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

3.18.030 Tax levy – amount.

There is levied upon and shall be collected from a person engaged in or carrying on the business of selling, furnishing, or transmitting:

A. Electric energy, 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 subject to any offset for fees based upon percentage of gross revenue, negotiated for and paid pursuant to a franchise agreement;

B. 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;

C. Natural gas, 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. 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. Solid waste collection business, a tax equal to 10% of the total gross income from such business in the city during the period for which the tax is due.

3.18.040 Exceptions and deductions.

There is excepted and deducted from the total gross income upon which the tax is computed: ~~the amount of the total gross income that is derived from business which the city is prohibited from taxing under the Constitution or laws of the United States and the Constitution or laws of the state of Washington.~~

A. That part of the total gross income derived from business which the City is prohibited from taxing under the constitution or laws of the United States and the constitution or laws of the State of Washington.

B. Adjustments made to a billing or customer account in order to reverse a billing or charge that was not properly a debt of the customer.

C. Cash discounts allowed and actually granted to customers of the taxpayer during the tax year.

D. Uncollectible debts written off the taxpayer's books during the tax year. If subsequently collected, the income shall be reported for the period in which it was collected.

3.18.050 Monthly installments.

The tax imposed by LFP MC 3.18.030 shall be due and payable in monthly installments, and remittance therefor shall be made on or before the last day of the month following the end of the monthly period in which the tax is accrued. On or before said due date, the taxpayer shall file with the ~~mayer~~City a written return upon such form setting forth such information as the Finance Director ~~mayer~~ shall reasonably require relating to the accurate computation and collection of this tax, together with the payment of the amount.

3.18.060 Use and accountability of tax proceeds.

Each taxpayer shall keep records reflecting the amount of the taxpayer's gross income on sales and services within the city, and such records shall be open at all reasonable times for the inspection of the mayor to verify information provided on any utility tax return, or to determine whether such return is required to be filed.

3.18.070 Taxpayer's records.

Each taxpayer shall keep records reflecting the amount of the taxpayer's gross income on sales and services within the City, and such records shall be open at all reasonable times for the inspection of the Finance Director or his or her designee to verify the information provided on any utility tax return or to determine whether such return is required to be filed.

3.18.080 Failure to make returns or to pay the tax in full.

If a taxpayer fails, neglects, or refuses to make his, her or its return as and when required by this chapter, the ~~mayer~~Finance Director, or his or designee, is authorized to determine the amount of the tax payable under provisions of LFP MC 3.18.030, and to notify such taxpayer that the tax so determined is immediately due and payable, together with penalty and interest. Delinquent taxes, including any penalties, are subject to an interest charge of 12% per year on the unpaid balance from the date any such taxes became due as provided in LFP MC 3.18.050.

3.18.090 Penalty for delinquent payment.

Whenever a person fails to pay any tax required by this chapter within 15 days after the due date thereof, there shall be added to such tax a penalty of 10 percent of the amount of such tax, and any tax due under this chapter that is unpaid and all penalties thereon shall constitute a debt to the city and may be collected by a collection agency, or court proceedings, which remedy shall be in addition to all other remedies.

3.18.100 Overpayment of tax.

Money paid to the city in excess of such tax, shall, upon discovery, be credited against any tax due or to become due from such taxpayer hereunder; provided however, that overpayments extending beyond one year before the city is notified of such overpayment shall not be refunded. If such taxpayer has ceased doing business in the city, any such overpayments shall be refunded to the taxpayer.

3.18.110 Noncompliance – penalty.

A. No person subject to this chapter shall fail or refuse to file tax returns or to pay tax when due, nor shall any person make a false statement or representation in or in connection with any such tax return, or otherwise violate or refuse to comply with this chapter or with any rule promulgated pursuant to LFPMC 3.18.130.

B. In addition to the interest and delinquent filing penalties set forth above, a willful violation of or failure to comply with this chapter is a civil infraction, subject to a cumulative fine of up to \$250 for each day that a violation continues.

3.18.120 Appeal to hearing examiner.

A taxpayer aggrieved by the amount of the tax, penalties, interest, or civil infraction fine determined to be due by the ~~mayer~~ Finance Director, or his or her designee, under the provisions of this chapter, may appeal such determination to the hearing examiner in accordance with the applicable chapters of this code, as now in effect or as may subsequently be amended.

3.18.130 Finance Director's ~~Mayer's~~ rulemaking authority.

The ~~mayer~~ Finance Director shall have the power to adopt and enforce rules and regulations not inconsistent with this chapter or with the law for the purposes of carrying out the provisions thereof.

3.18.140 Referendum procedure.

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

A. A referendum petition seeking to repeal this chapter shall be filed with the city clerk, who shall be designated the person to receive petitions of all types, within seven calendar 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 the next election ballot within the City or at a special election ballot as provided pursuant to RCW 35.17.260(2), 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 city clerk.

3.18.150 Exclusive procedure.

Pursuant to RCW 35.21.706, the referendum procedure set forth in LFPMC 3.18.140 shall be the exclusive referendum procedure for the tax imposed herein, and shall supersede the procedures, to the extent applicable, under Chapters 35A.11 RCW and all other statutory or charter provisions for initiative or referendum which might otherwise apply.

Section 2. TAX YEAR. The tax year for purposes of the solid waste utility tax shall commence _____, 2025 and end December 31, 2025, and thereafter shall commence on January 1 and end on December 31 each year.

Section 3. SEVERABILITY. Should any portion of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4. CORRECTIONS. The City Clerk is authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerk errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 5. EFFECTIVE DATE. After passage and publication, this ordinance shall take effect _____, 2025.

APPROVED BY A MAJORITY of the Lake Forest Park City Council this ____ day
of _____, 20__.

APPROVED:

Thomas French
Mayor

ATTEST/AUTHENTICATED:

Matthew McLean
City Clerk

APPROVED AS TO FORM:

Kim Adams Pratt
City Attorney

Introduced: _____
Adopted: _____
Posted: _____
Published: _____
Effective: _____