

# CITY OF MAPLE VALLEY, WASHINGTON

## ORDINANCE O-13-544

### AN ORDINANCE AMENDING MAPLE VALLEY MUNICIPAL CODE SECTION 3.15.020, UTILITY TAX, SECTION 3.15.030, DEFINITIONS, AND SECTION 3.15.040, OCCUPATIONS SUBJECT TO TAX – AMOUNT, PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the Maple Valley City Council has established a utility tax rate of 3.00% upon certain businesses, pursuant to RCW 35.21.865; and

WHEREAS, the City Council increased the utility tax to 6.00% in 2010 in order to bridge the financial gap between decreasing revenues, increasing demands for public safety services and the commensurate costs involved in meeting those demands with the closure of Precinct 3; and

WHEREAS, the City Council has determined that a new cable television utility tax is necessary in order to meet the needs of providing additional recreational opportunities to Maple Valley citizens through funding the debt service on councilmanic bonds to be issued for partial funding of the Ravensdale Park Phase 2 project identified in the 2014-2019 Capital Improvement Plan as project P11;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MAPLE VALLEY, WASHINGTON, DO ORDAIN AS FOLLOWS:

**Section 1.** Amendment. Maple Valley Municipal Code Section 3.15.020, Utility tax, is hereby amended as follows (new text shown in underline, deleted text shown in ~~striketrough~~):

#### 3.15.020 Utility tax

The tax provided for in this chapter shall be known as the “utility tax,” and is levied upon the privilege of conducting an electrical energy, natural gas, steam energy, telephone, ~~or~~ cellular telephone ~~business~~, or cable television business within the City of Maple Valley.

**Section 2.** Amendment. Maple Valley Municipal Code Section 3.15.030, Definitions, is hereby amended as follows (new text shown in underline):

#### 3.15.030 Definitions

A. Use of Words and Phrases. As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

B. "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, 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. Cellular telephone service is included within the definition of "telephone business" for the purposes of this chapter.

C. "City Manager" means the City Manager of the City of Maple Valley, Washington, or his or her designee.

D. "Competitive telephone service" means the providing by any person of telecommunications equipment or apparatus, directory advertising and lease of telephone street directories, or service related to that equipment or apparatus such as repair or maintenance service, if the equipment or apparatus is of a type which may be provided by persons not subject to regulation as telephone companies under RCW Title 80, and for which a separate charge is made. Transmission of communication through cellular telephones is classified as "telephone business" rather than "competitive telephone service."

E. "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.

F. "Pager service" means service provided by means of an electronic device which 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.

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

H. "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. "Telephone business" does not include the providing of competitive telephone service, or providing of cable television service or other providing of broadcast services by radio or television stations.

I. “Cable television services” means the transmission of video programming and associated non-video signals to subscribers together with subscriber interaction, if any, which is provided in connection with video programming.

**Section 3.** Amendment. Maple Valley Municipal Code Section 3.15.040, Occupations subject to tax – Amount, is hereby amended as follows (new text shown in underline):

3.15.040 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 6.0 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 6.0 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 6.0 percent of the total gross income from such business in the City during the period for which the tax is due; and

D. Upon a person engaged in or carrying on the business of selling, furnishing, or transmitting cellular telephone service, a tax equal to 6.0 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 carrying on the business of selling, furnishing or transmitting cable television service, a tax equal to 3.0 percent for calendar year 2014 and beyond, of the total gross income from such business in the City during the period for which the tax is due. This subsection shall cease to have effect after December 31, 2023.

**Section 4.** Referendum Procedure. The provisions of this Ordinance are subject to the referendum procedure as follows:

A. A referendum petition seeking to repeal this Ordinance 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 this Ordinance or publication thereof, whichever is later.

B. Within ten 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 ten-day period.

D. After notification of the identification number and ballot title, the petitioner shall have thirty days in which to secure on petition forms the signatures of not less than fifteen percent of the registered voters of the City as of the last municipal general election 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 within the city or at a special election as provided pursuant to RCW 35.17.260(2).

**Section 5.** Exclusive Procedure. Pursuant to RCW 35.21.706, the referendum procedure set forth in Section 4, above, 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 and all other statutory provisions for initiative or referendum which might otherwise apply.

**Section 6.** Severability. If any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

**Section 7.** Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five days after adoption and publication except that pursuant to RCW 35.21.865, the effective date of the rate change shall be sixty days after enactment of the ordinance.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MAPLE VALLEY,  
WASHINGTON ON THIS 25<sup>th</sup> DAY OF NOVEMBER, 2013.

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William A. Allison, Mayor

ATTEST:

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Shaunna Lee-Rice, City Clerk

APPROVED AS TO FORM:

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Patricia Taraday, City Attorney

Date of Publication: December 3, 2013

Effective Date: December 8, 2013

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