

CITY OF FIFE, WASHINGTON

ORDINANCE NO. 1893

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON AMENDING SECTIONS 3.60.030 AND 3.61.010 OF THE FIFE MUNICIPAL CODE TO EXTEND THE SUNSET PROVISIONS ON UTILITY TAX INCREASES TO ACCOMMODATE BOND FINANCING

WHEREAS, on October 25, 2011, the Fife City Council adopted Ordinance No. 1754 increasing the electrical utility tax from 3% to 6%; and

WHEREAS, it was not the Council's intent to make the electric utility tax increase permanent, and thus the ordinance provided for expiration of the electric utility tax increase on January 1, 2020; and

WHEREAS, on October 23, 2012, the Fife City Council adopted Ordinance No. 1815 imposed a utility taxes on cellular telephone, cable television, and garbage collection services of 6%, and increased in the utility taxes on natural gas, telephone, sewer, water, and storm drainage and surface water management utility services, to 6%; and

WHEREAS, it was not the Council's intent to make Ordinance No. 1815 a permanent utility tax increase, and thus the ordinance provided for expiration of the new utility taxes and tax rates on January 1, 2019; and

WHEREAS, the City is proposing to issue limited tax general obligation refunding bonds to fund various capital projects; and

WHEREAS, both bond issuances will have 15-20 year payment terms; and

WHEREAS, in order to have the bonds issued, it is necessary to extend the utility tax increases adopted in Ordinance Nos. 1754 and 1815 for the terms of the bonds; and

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Section 3.60.030 of the Fife Municipal Code is hereby amended to read as follows:

3.60.030 Tax levied – Electrical, telephone, cellular telephone, cable television, garbage, and natural gas.

There is hereby levied upon and there shall be collected from every person, firm or corporation engaged in or carrying on the following business for hire or for sale of a commodity or a service within or partly within the corporate limits of the city the tax for the privilege of so doing business as hereinafter defined:

A. Upon the sale, delivery or distribution of electricity and electrical energy, such tax to be equal to three percent of the total gross revenues derived from the sales of such electricity to ultimate users within the city limits; provided, that from January 1, 2012, through December 31, 2035, such tax shall be equal to six percent of the total gross revenue derived from the sales of such electricity to ultimate users within the city limits. For purposes of determining gross revenues, amounts received from contract industrial service contract power (CP) customers (industrial nonportfolio power contracts) shall be as if the gross revenues so received equaled the amount that would have been received if the power rate charged to contract industrial service contract power customers equaled the amount that would have been received for the same power at contract industrial service schedule CP rates for portfolio power. No tax shall be imposed upon that portion of gross revenues that is attributable to a temporary rate surcharge imposed by the electrical utility upon its ratepayers.

B. Upon the sale, delivery or distribution of natural gas and/or artificial gas for domestic, business or industrial consumption, such tax to be equal to four and one-half percent of the total gross revenues derived from the sales of such gas to ultimate users within the city; provided, that from January 1, 2013, through December 31, 2035, such tax shall be equal to six percent of the total gross revenue derived from the sales of such gas to ultimate users within the city.

C. Upon any telephone business there shall be levied a tax equal to four and one-half percent of the total gross revenues, including revenues from intrastate toll, derived from the operation of such business within the city limits; provided, that from January 1, 2013, through December 31, 2035, such tax shall be equal to six percent of the total gross revenue, including revenues from intrastate toll, derived from the operation of such business within the city limits. Gross operating revenues for this purpose shall not include charges which are passed on to the subscribers by a telephone company pursuant to tariffs required by regulatory order to compensate for the cost to the company of the 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 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 lines telephone companies or associations operating an exchange. “Telephone business” does not include the providing of competitive telephone service, nor the providing of cable television service.

“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.

D. From January 1, 2013, through December 31, 2035, upon the business of providing cellular telephone service, a tax equal to six percent of the total gross income from such business in the city. “Cellular telephone service” 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 which accomplishes the same purpose as cellular mobile service.

E. From January 1, 2013, through December 31, 2035, upon the business of providing garbage collection service, including recyclables and yard waste, such tax to be equal to six percent of the total gross revenues of such business within the city.

F. From January 1, 2013, through December 31, 2035, upon the business of providing cable television services, a tax equal to six percent of the total gross income from gross subscriber revenues in the city. For purposes of this chapter, "gross subscriber revenues" means and includes those revenues derived from the supplying of subscription services, that is, installation fees, disconnect and reconnect fees, fees for regular cable benefits including the transmission of broadcast signals and access and origination channels and per-program or per-channel charges; it does not include leased channel revenue, advertising revenue, or any other income derived from the system. For purposes of this chapter, "cable television services" means the one-way transmission of video programming and associated nonvideo signals to subscribers together with subscriber interaction, if any, which is provided in connection with video programming.

Section 2. Section 3.60.030 of the Fife Municipal Code is hereby amended to read as follows:

3.61.010 City utilities.

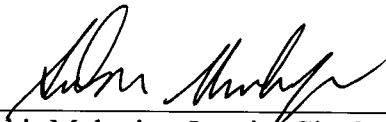
There is hereby imposed upon the water, sewer, and storm drainage and surface water management utilities of the city, a tax upon the monthly gross earnings of each utility of four and one-half percent of said gross earnings; provided, that from January 1, 2013, through December 31, 2035, such tax shall be equal to six percent of said gross earnings. The taxes imposed under this section shall be subordinate to any payments required to be made by said utilities from the gross earnings into any fund or funds heretofore or hereafter issued.

Section 3. Each and every provision of this Ordinance shall be deemed severable. In the event that any portion of this Ordinance is determined by final order of a court of competent jurisdiction to be void or unenforceable, such determination shall not affect the validity of the remaining provisions thereof, provided the intent of this Ordinance can still be furthered without the invalid provision.

Section 4. This Ordinance shall be in full force and effect five (5) days after publication as required by law. A summary of this Ordinance may be published in lieu of the entire Ordinance, as authorized by State law.


Introduced on the 12th day of November, 2014.

Passed by the City Council on the 12th day of November, 2014.



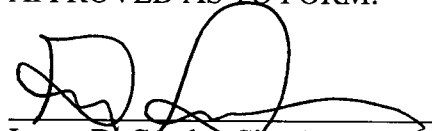
Subir Mukerjee, Interim City Manager

ATTEST:



Carol Etgen, City Clerk

APPROVED AS TO FORM:



Loren D. Combs, City Attorney
assistant city attorney

Published: Nov 14 2014
Effective Date: Nov 19, 2014