

## ORDINANCE NO. 16-024

AN ORDINANCE adding a new Chapter 3.10 of the Camas Municipal Code establishing a utility tax to provide revenue for City services and capital facilities, establishing a special referendum procedure, and setting penalties for non-compliance; providing for severability; and establishing an effective date.

WHEREAS, the Council of the City of Camas has determined that the public interest is best served by the implementation of a utility tax.

NOW THEREFORE, the Council of the City of Camas do ordain as follows:

### Section I

A new Chapter 3.10 of the Camas Municipal Code, entitled "Utility Tax", is hereby added to provide as follows:

#### **3.10.010      Use and Accountability of Tax Proceeds**

All revenues collected pursuant to this Ordinance shall be deposited into the General Fund, and shall be used for the funding of City services or capital facilities as the Council shall direct through its biennial budget.

#### **3.10.020      Utility Tax**

The tax provided for in this Ordinance shall be known as the "utility tax" and is levied upon the privilege of conducting a telephone, cable television, solid waste, or storm water and drainage business within the City of Camas effective January 1, 2017.

#### **3.10.030      Definitions**

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

B. "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.

C. "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.

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

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

"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

any other evolving wireless radio communications technology 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 ordinance.

“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 Title 80 RCW, and for which a separate charge is made. Transmission of communication through cellular telephones is classified as “telephone business” rather than “competitive telephone service”.

“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. “Pager service” is included within the definition of “telephone business” for the purposes of this ordinance.

F. “Solid waste collection business” means every person who receives solid waste or recyclable materials, or both, as defined in this section, 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.

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

G. “Storm Water and Drainage Operation” means operation of storm water and drainage facilities, including collection, treatment and disposal facilities, and surface water drains and outfalls.

### **3.10.040 Utility Occupation Activities Subject to Taxation**

Upon every person/entity within the City in the following activities; as to such persons/entities, the amount of the tax due with respect to such business in the City shall be equal to the gross income of the business, multiplied by the following applicable rates:

<b>Activity</b>	<b>Tax Rate</b>
A. Competitive Telephone Service	1%
B. Telephone Business	1%
C. Cellular Telephone Service	1%
D. Cable Television Service	1%
E. Solid Waste Collection Business	3%
F. Storm Water and Drainage Operation	3%

### **3.10.050 Tax Year**

The tax year for purposes of this utility tax shall commence February 1, 2017, and end December 31, 2017, and thereafter commence January 1 and end December 31.

### **3.10.060 Exceptions and Deductions**

There is excepted and deducted from the total gross income upon which the tax is computed:

A. So much of the total gross income as 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.

B. Income derived from that portion of network telephone service, as defined in RCW 82.04.065, which represents charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services, or for access to, or charges for, interstate services, or charges for network telephone service that is purchased for the purpose of resale.

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

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

E. 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 collected.

F. Grants from governmental agencies.

G. For municipal solid waste collection utilities, the amount paid to another municipal corporation or agency for services associated with any solid waste collection business.

H. For municipal storm water and drainage operations, the amount paid to another municipal corporation or agency for storm water and drainage services.

#### **3.10.070 Monthly Installments**

The tax imposed by Section IV herein 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 City Finance Director a written return upon such form and setting forth such information as the City Finance Director shall reasonably require relating to the accurate computation and collection of this tax, together with the payment of the amount.

#### **3.10.080 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 City Finance Director or his/her designee to verify information provided on any utility tax return, or to determine whether such return is required to be filed.

#### **3.10.090 Failure to Make Returns or to Pay the Tax in Full**

If a taxpayer fails, neglects, or refuses to make his/her/its return as and when required in this

Ordinance, the City Finance Director is authorized to determine the amount of the tax payable under provisions of Section IV herein, and to notify such taxpayer of the amount so determined. The amount so fixed shall thereupon be the tax and be immediately due and payable, together with penalty and interest. Delinquent taxes, including any penalties, are subject to an interest charge of twelve percent (12%) per year on the unpaid balance from the date any such taxes became due as provided in Section VII herein.

**3.10.100          Penalty for Delinquent Payment**

If a person/entity subject to this tax fails to pay any tax required by this Ordinance within fifteen days after the due date thereof, there shall be added to such tax a penalty of ten percent (10%) of the amount of such tax, and any tax due under this Ordinance that is unpaid and all penalties shall constitute a debt to the City and may be collected by court proceedings, which remedy shall be in addition to all other remedies.

**3.10.110          Overpayment of Tax**

Money paid to the City through error, or otherwise not in payment of the tax imposed by this Ordinance, or 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 prior to notification of the City shall not be refunded. If such taxpayer has ceased doing business in the City, any such overpayment shall be refunded to the taxpayer.

**3.10.120          Noncompliance - Penalty**

A. No person/entity subject to this Ordinance 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 Ordinance or with any rule promulgated herein.

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

### **3.10.130      Appeal**

A taxpayer aggrieved by the amount of the tax, penalties, or interest determined to be due by the City Finance Director or his/her designee, under the provisions of this Ordinance, may appeal such determination to the City of Camas, City Administrator or his/her designee.

## **Section II**

### **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 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 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 III

#### **Exclusive Procedure**

Pursuant to RCW 35.21.706, the referendum procedure set forth in Section XIV 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 IV

#### **Severability**

Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person, entity, or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

### Section V

#### **Effective Date**

This Ordinance shall take force and be in effect five (5) days from and after its passage, approval, and publication according to law, subject to the provisions of Section III herein in the event



of the filing of a referendum.

PASSED BY the Council and APPROVED by the Mayor this 21st day of November, 2016.

SIGNED: \_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
Clerk

APPROVED as to form:

\_\_\_\_\_  
City Attorney