

ORDINANCE 749

CITY OF LACEY

AN ORDINANCE IMPOSING A LICENSE TAX UPON THE CONDUCT OF PUBLIC UTILITY BUSINESSES WITHIN THE CITY FOR PURPOSES OF PROVIDING REVENUE, IMPOSING PENALTIES FOR FAILURE TO COMPLY WITH THE TERMS OF SAID ORDINANCE AND ADDING A NEW CHAPTER TO THE LACEY MUNICIPAL CODE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, as follows:

Section 1. There is hereby added to the Lacey Municipal Code a new Chapter, 3.01, to read as follows:

"3.01.010. The provisions of this chapter shall be deemed an exercise of the power of the City of Lacey to license for revenue.

"3.01.020. In construing the provisions of this chapter, except when otherwise declared or clearly apparent from the context, the following definitions shall be applied:

"A. '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.

"B. 'Garbage Collection and Disposal Business' means the business of operating a system for the collection and/or disposal of garbage or refuse.

"C. 'Gas Distribution Business' means the business of operating a plant or system for the production or distribution for hire or sale of gas, whether manufactured or natural.

"D. 'Gross Income' means the value proceeding or accruing from the performance of the particular public utility service involved within the city, including operations incidental thereto, but without any deduction on account of the cost of the commodity furnished or sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever, paid or accrued and without any deduction on account of losses: provided, that gross income of a light and power business means those amounts or value accruing to a tax payer from the last distribution of electrical energy which is a taxable event within this state.

"E. 'Light and Power Business' means the business of operating a plant or system for the generation, production or distribution of electrical energy for hire or sale.

"F. 'Person' or 'Company', herein used interchangeably, means any individual, firm, partnership, corporation, trust, association, governmental unit, or municipal corporation.

"G. 'Public Utility Business' means any garbage collection and disposal business, gas distribution business, light and power business, sewerage business, telephone business or water distribution business as defined in this section operated by any person, private or public.

"H. 'Sewerage Business' means the collection, transportation and/or treatment of sanitary sewage.

"I. 'Telephone' 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, to a line or channel, or similar communication or transmission system. It includes cooperative or farmer line telephone companies or associations operating in exchange. Telephone business does not include the providing of competitive telephone service nor the providing of cable television service.

"J. 'Value Proceeding or Accruing' means the consideration, whether money, credits, rights, or other property expressed in terms of money, actually received or accrued. The term shall be applied in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer.

"K. 'Water Distribution Business' means the business of operating a plant or system for the distribution of water for hire or sale.

"3.01.030. There is levied and there shall be collected from every person a tax for the act or privilege of engaging within the City of Lacey in any one or more of the public utility businesses herein defined. The tax shall be equal to the gross income of the business multiplied by the rates set out in Section 3.01.040.

"3.01.040. The rate of tax levied pursuant to 3.01.030 shall be 1.5 percent from January 1, 1986, through December 31, 1986. The said rate shall increase to 3.0 percent effective January 1, 1987.

"3.01.050. The taxes imposed hereunder shall be due and payable to the city in monthly installments and remittance therefore shall be made on or before the 15th day of the month next succeeding the end of the monthly period in which the tax accrued. The public utility business shall, on or before the 15th day of such month, make out a return upon such forms and setting forth such information as the city may require, showing the amount of the tax for which it is liable for the preceding monthly period, sign, and transmit the same to the city, together with a remittance for such amount: provided, that any public utility business may elect to remit each month on such forms as the city shall, in its discretion, prescribe, an estimate of the tax to be due for each month on or before the 15th day of the month next succeeding the end of the monthly period in which the tax accrued and a quarterly return to the city on or before the 15th day of the month next succeeding the end of each quarter of every year and shall remit therewith the balance of the actual tax due for the period of the report: provided further, that every public utility business which shall elect to remit a monthly estimate shall remit each month at least one-third of the tax paid during the previous quarter or, at least, 90 percent of the tax actually collected or owing during the month.

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"3.01.060. There shall be excepted and deducted from the total gross income upon which the tax levied herein is computed so much thereof as is derived from transactions in interstate or foreign commerce, any payment collected by a public utility business which directly represents a tax levied by the United States, the State of Washington, or the City of Lacey pursuant to this chapter, and amounts derived from business which the city is prohibited from taxing under the constitution of this state or the constitution or laws of the United States.

"3.01.070. It shall be the duty of every person engaging in a public utility business as defined in this chapter to keep and preserve books or records which accurately reflect the amount of gross income received from business done in the City of Lacey and copies of reports furnished to the State Department of Revenue as part of the accounting required for state utility tax reporting and said books and records shall be open to the inspection of the city for the purpose of verifying the returns filed by such person and the sums paid pursuant to this chapter. Said records shall not, by virtue of the requirement of this action, be deemed public records for purpose of disclosure other than to the duly authorized agents of the city for the purposes set forth herein.

"3.01.080. If payment of any fee or tax due under this chapter is not received by the city on or before the day it becomes due under this chapter, there shall be added a penalty in interest as follows:

(1) 1 to 40 days delinquency, 10 percent with a minimum penalty of \$5.00;

(2) 41 to 70 days delinquency, 15 percent with a minimum penalty of \$10.00;

(3) 71 or more days delinquency, 20 percent with a minimum penalty of \$15.00.

Any tax due and unpaid, and all penalties thereon, shall constitute a debt to the city and may be collected by court proceedings, which remedy shall be in addition to all other remedies.

"3.01.090. Any money paid to the city through error or otherwise and not in payment of the tax imposed by this chapter or in excess of such tax shall, upon request of the public utility business, be credited against any tax due or to become due hereunder, or upon said business ceasing to do business in the city, be refunded.

"3.01.100. Any person, firm or corporation subject to this chapter who shall fail or refuse to make the tax return or to pay the tax when due, or who shall make any false statement or representation in or in connection with such tax return, or shall otherwise violate or refuse or fail to comply with this chapter, shall be guilty of a misdemeanor."

Section 2. This ordinance shall take effect on
January 1, 1986.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY,
WASHINGTON, this 13th day of June, 1985.

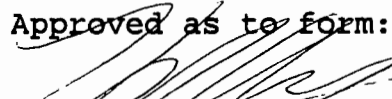
CITY COUNCIL

By 
Mayor

Attest:


City Clerk

Posted: 6-14-85

Approved as to form:

City Attorney

Published: 6-19-85