

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 4841

AN ORDINANCE relating to the utility occupation tax of the City of Bellevue; repealing Chapter 4.10 of the Bellevue City Code; repealing Chapter 5.20 of the Bellevue City Code; adding a new Chapter 4.10 to the Bellevue City Code; and establishing an effective date.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 4.10 of the Bellevue City Code, the Utility Occupation Tax Code, and Sections 4.10.010 through .220 inclusive, thereof, is repealed.

Section 2. Chapter 5.20 of the Bellevue City Code, and Sections 5.20.010 through .130 inclusive, thereof, is repealed.

Section 3. A new Chapter 4.10 is added to the Bellevue City Code, to be designated the Utility Occupation Tax Code, to read as follows:

Sections:

- 4.10.010 Exercise of revenue license power.
- 4.10.015 General administrative provisions apply.
- 4.10.020 Definitions.
- 4.10.025 Tax imposed.
- 4.10.030 Utility occupation activities subject to tax.
- 4.10.035 Cellular telephone service - Income allocation and administration.
- 4.10.040 Use tax on the privilege of using natural gas or manufactured gas as a consumer.
- 4.10.045 Exemptions.
- 4.10.050 Deductions.
- 4.10.055 Utility tax relief.
- 4.10.060 Utility tax relief - Qualifications.
- 4.10.065 Claim filing procedures.
- 4.10.070 Consumer price index changes.

4.10.010 Exercise of Revenue License Power.

The provisions of this Chapter 4.10 constitute an exercise of the power of the City to license for revenue.

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4.10.015 General Administrative Provisions Apply.

The provisions of Chapter 4.02 of the Bellevue City Code, the Tax Administration Code, shall be fully applicable to the provisions of this Chapter except as expressly stated to the contrary herein.

4.10.020 Definitions.

The definitions set forth in Chapter 4.02 of the Bellevue City Code shall apply throughout this Chapter, unless expressly provided otherwise herein. The following additional definitions shall apply throughout this Chapter:

- A. "Cable television services" means the one-way 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.
- B. "Cellular telephone service" means two-way voice and data telephone/telecommunications system based in whole or substantially in part on wireless radio communications and which is not currently subject to regulation by the Washington Utilities and Transportation Commission (WUTC). Cellular telephone service 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.
- C. "Chapter" shall mean Chapter 4.10 of the Bellevue City Code, as it may be amended or replaced from time to time.
- D. "Competitive telephone service" means the providing by any person of telecommunications equipment or apparatus, or service related to that equipment or apparatus such as repair or maintenance service, if the equipment or apparatus is of a type which can be provided by persons that are not subject to regulation as telephone companies under Title 80 RCW and for which a separate charge is made.
- E. "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.

- F. "Gross proceeds of sale" or "gross income of business" means the value proceeding or accruing from the sale of tangible personal property and/or for services rendered, without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.
- G. "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 and/or for the wheeling of electricity for others.
- H. "Network telephone service" means the providing by any person of access to a local telephone network, local telephone network switching service, toll service, or coin telephone services, or the providing of telephonic, video, data, or similar communication or transmission for hire, via a local telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. "Network telephone service" includes interstate service, including toll service, originating from or received on telecommunications equipment or apparatus in this State if the charge for the service is billed to a person in this State. "Network telephone service" does not include the providing of competitive telephone service, the providing of cable television service, or the providing of broadcast services by radio or television stations.
- I. "Recyclable materials" means those solid wastes that are separated for recycling or reuse, such as papers, metals, and glass, that are designated as recyclable materials pursuant to Section 9.26.030 of the Bellevue City Code.
- J. "Sewerage system business" means and includes:
 - 1. Sanitary sewage disposal sewers and facilities, including without limitation on-site or off-site sanitary sewer facilities consisting of an approved septic tank or septic tank systems, or any other means of sewage treatment and disposal;
 - 2. Combined sanitary sewage disposal and storm or surface water drains and facilities;

3. Storm or surface water drains, channels and facilities;
 4. Outfalls for storm drainage or sanitary sewage and works, plants, and facilities for storm drainage or sanitary sewage treatment and disposal;
 5. Any combination of or part of any or all of such facilities.
- K. "Solid waste" or "wastes" means all putrescible and nonputrescible 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.
- L. "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.
- M. "Telecommunications company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, operating or managing any facilities used to provide telecommunications for hire, sale, or resale to the general public within this State.
- N. "Telegraph business" means the business of providing telegraphic communication for hire.
- O. "Telephone business" means the business of providing network telephone service, as defined in this Section. It includes cooperative or farmer line telephone companies or associations operating an exchange.
- P. "Telephone service" means competitive telephone service or network telephone service, or both, as defined in this Section.
- Q. "Water distribution business" means the business of operating a plant or system for the distribution of water for hire or sale.

4.10.025 Tax imposed.

There is levied and shall be collected from every person a tax for the act or privilege of engaging in utility occupation activities. Such tax shall be measured by the application of rates against gross proceeds of sales from customers within the City.

4.10.030 Utility Occupation Activities Subject to Tax.

Upon every person engaging within this City in the following activities; as to such persons, 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:

	<u>Activity</u>	<u>Tax Rate</u>
A.	Gas Distribution Business	4.5%
B.	Water Distribution Business	4.5%
C.	Light and Power Business	4.5%
D.	Sewerage System Business	4.5%
E.	Cable Television Service	4.8%
F.	Telephone Business	6.0%
G.	Cellular Telephone Service	6.0%
H.	Solid Waste Collection Business	4.5%

4.10.035 Cellular Telephone Service - Income Allocation and Administration.

- A. Allocation of Income.
1. Service address: Payments by a customer for cellular telephone service from telephones without a fixed location shall be allocated among taxing jurisdictions to the location of the customer's principal service address during the period for which the tax applies.
 2. Presumption: There is a presumption that the service address a customer supplies to the taxpayer is current and accurate, unless the taxpayer has actual knowledge to the contrary.

3. **Roaming:** When the cellular telephone service is provided while a subscriber is roaming outside the subscriber's normal cellular network area, the gross income shall be assigned consistent with the taxpayer's accounting system to the location of the originating cell site of the call, or to the location of the main cellular switching office that switched the call.

- B. **Dispute Resolution.** If there is a dispute between or among the City and another city or cities as to the service address of a customer who is receiving cellular telephone services and the dispute is not resolved by negotiation among the parties, then the dispute shall be resolved by the City and the other city or cities by submitting the issue for settlement to the Association of Washington Cities (AWC). Once taxes on the disputed revenues have been paid to one of the contesting cities, the cellular telephone service company shall have no further liability with respect to additional taxes, penalties, or interest on the disputed revenues, so long as it promptly changes its billing records for future revenues to comport with the settlement facilitated by the AWC.

- C. **Authority of Administrator.** The Director is authorized to represent the City in negotiations with other cities for the proper allocation of cellular telephone service taxes imposed pursuant to this Chapter.

- D. **Rate change.** No change in the rate of tax upon persons engaging in providing cellular telephone service shall apply to business activities occurring before the effective date of the change and, except for a change in the tax rate authorized by RCW 35.21.870, no change in the rate of the tax may take effect sooner than sixty days following the enactment of the ordinance establishing the change. The Director shall send to each cellular telephone service company at the address of record a copy of any ordinance changing the rate of tax upon cellular telephone service promptly upon its enactment.

4.10.040 Use Tax on the Privilege of Using Natural Gas or Manufactured Gas as a Consumer.

- A. As authorized by RCW 82.14.230, there is hereby fixed and imposed on every person a use tax for the privilege of using natural gas or manufactured gas in the City as a consumer. The tax shall be in an amount equal to the value of the article used by the taxpayer multiplied by the rate of tax on the gas distribution business set forth

in Section 4.10.030(A). The "value of the article used" shall have the meaning set forth in RCW 82.12.010(1), and does not include any amounts that are paid for the hire or use of a natural gas business in transporting the gas subject to tax under this Section if those amounts are subject to tax under Section 4.10.030(A).

- B. The tax imposed under this Section shall not apply to the use of natural or manufactured gas if the person who sold the gas to the consumer has paid a tax under Section 4.10.030(A) with respect to the gas for which exemption is sought under this subsection.
- C. There shall be a credit against the tax levied under this Section in an amount equal to any tax paid by:
 - 1. The person who sold the gas to the consumer when that tax is a gross receipts tax similar to that imposed pursuant to Section 4.10.030(A) by another state with respect to the gas for which a credit is sought under this subsection; or
 - 2. The person consuming the gas upon which a use tax similar to the tax imposed by this Section was paid to another state with respect to the gas for which a credit is sought under this subsection.
- D. The use tax hereby imposed shall be paid by the consumer. The administration and collection of the tax hereby imposed shall be by the Washington State Department of Revenue pursuant to RCW 82.14.050, as now or hereafter amended.

4.10.045 Exemptions.

The tax levied pursuant to this Chapter is in lieu of any excise, privilege or occupational tax based on gross proceeds under any chapters of Title 4 of the Bellevue City Code with respect to activities specifically within the provisions of this Chapter. Nothing herein shall be construed to exempt persons taxable under the provisions of this Chapter from tax under any other chapters of Title 4 with respect to activities other than those specifically within the provisions of this Chapter.

4.10.050 Deductions.

In computing the tax imposed by this Chapter, the following items may be deducted from the measure of the tax.

- A. The amount of credit losses actually sustained by taxpayers whose regular books are kept upon an accrual basis.
- B. Charges by a taxpayer engaging in a telephone business to a telecommunications company for telephone service that the purchaser buys for the purpose of resale.
- C. That portion of the gross income derived from charges to another telecommunications company for connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services, or for access to, or charges for, interstate services.
- D. Adjustments made to a billing or to a customer account or to a telecommunications company accrual account in order to reverse a billing or charge that had been made as a result of third-party fraud or other crime and was not properly a debt of the customer.
- E. Amounts derived from business which the City is prohibited from taxing under the Constitution or laws of this State or of the United States.

4.10.055 Utility Tax Relief.

There is granted to persons who meet the qualifications and requirements of Sections 4.10.060 and 4.10.065 from the utility occupation tax of the City as follows:

- A. For all billings paid by the person during a calendar year for service charges to any organization which paid the utility occupation tax of the City, the City shall pay to such person a "reimbursement" in an amount equal to the utility tax which applied to such billings or, in lieu thereof, at the election of the person, a minimum amount determined in accordance with Section 4.10.055 (B).

- B. The amount of minimum relief under this Section for a calendar year is sixty-four dollars and shall be adjusted for calendar year 1996 and each subsequent year in accordance with Section 4.10.070, prorated for each month of residency in the City.

4.10.060 Utility Tax Relief - Qualifications.

To qualify for the relief set forth in Section 4.10.055, a person must:

- A. Meet one of the following criteria:
1. Be sixty-two years of age or older at all times during any period for which "reimbursement" is requested; or
 2. Be permanently disabled under the definitions of Subsections (2) or (3)(A), (3)(B) or (3)(C) of 42 U.S.C. sec.1382c(a) and receiving funds from a disability program such as Supplemental Security Income, Social Security Disability Insurance or Disabled Veterans payments; and
- B. Have an income during the calendar year, or part thereof, for which a "reimbursement" is requested from all sources whatsoever, not exceeding fifty percent of the median income level for such calendar year for the Seattle, King County Primary - Metropolitan Statistical Area (PMSA) for one person or two-person households, whichever is applicable, as published by the Secretary of Housing and Urban Development. If the annual update of the PMSA is not available, the median income level shall be determined by adjusting the prior year median income level in accordance with Section 4.10.070. As used in this subsection, "income" means:
1. "Disposable income," as that term is defined in RCW 84.36.383, as it may be amended or replaced from time to time, plus
 2. The aggregate value of all gifts, subsidies and benefits received during the calendar year for which a "reimbursement" is requested, excluding the first five thousand and eight dollars and sixty-nine cents thereof.

The aggregate value of gifts, subsidies and benefits excludable from income as provided in this Section shall be adjusted for

the calendar year 1997 and each subsequent calendar year in accordance with Section 4.10.070; and

- C. Have been a resident of the dwelling unit within the City at all times during any period for which a billing reduction or reimbursement is requested, and have contributed to the payment of City utility charges from his or her income or resources.

4.10.065 Claim Filing Procedures.

- A. All claims for relief under Sections 4.10.055 and 4.10.060 must be made annually and filed with the Bellevue Utilities Department at any time during the calendar year following the calendar year, or portion thereof, for which a "reimbursement" is requested.
- B. All billings for which claim is made under Section 4.10.055 and 4.10.060 shall be submitted to the Bellevue Utilities Department as part of the claim for relief.
- C. All claims for relief shall be submitted to the Bellevue Utilities Department in writing on a form provided by the department and certified by the claimant that to the best of the claimant's knowledge, all information provided in the claim is true and correct.
- D. The Bellevue Utilities Department may publish rules and regulations to implement this Section and Sections 4.10.055, 4.10.060, and 4.10.070.

4.10.070 Consumer Price Index Changes.

The amount of minimum relief established under Section 4.10.055(B) and the aggregate value of gifts, subsidies and benefits excludable from income under Section 4.10.060 and the median income level figure utilized when the Seattle, King county Primary - Metropolitan Statistical Area (PMSA) update is not available pursuant to Section 4.10.060 shall be administratively adjusted on January 1st of each year by the Director of the Bellevue Utilities Department to reflect any change in the cost of living, as defined and calculated pursuant to Section 4.02.020(B).

Section 4. The provisions of Sections 1-3 of this ordinance shall take effect and be in force on January 1, 1996.

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Section 5. This ordinance shall take effect and be in force five (5) days after passage and legal publication.

PASSED by the City Council this 1st day of December 1995, and signed in authentication of its passage this 1st day of December, 1995.

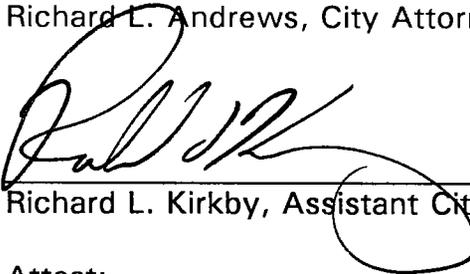
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Donald S. Davidson, DDS, Mayor

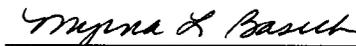
Approved as to form:

Richard L. Andrews, City Attorney



Richard L. Kirkby, Assistant City Attorney

Attest:



Myrna L. Basich, City Clerk

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