

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6041

AN ORDINANCE establishing revised charges for water service, water consumption, and water standby capacity charges for customers outside the City of Bellevue; providing for severability; and establishing an effective date.

WHEREAS, the Washington State Supreme Court held in *Lane v. City of Seattle*, 164 Wn.2d 875, 194 P.3d 977 (2008), that fireflow capacity charges are a governmental function and that such costs must be paid from the City's General Government Fund; and

WHEREAS, water service, water consumption, and water standby capacity charges for all water system customers were reduced effective January 1, 2010, to remove fire protection capacity costs from rates in response to the *Lane* decision; and

WHEREAS, because of the financial impact to the City's General Government Fund for costs associated with fireflow capacity and the risk to basic City service levels, the City Council adopted Ordinance No. 5919-A on December 7, 2009, increasing the rate of utility occupation tax levied on the Bellevue Utilities Department water distribution business to recoup the impact to the General Government Fund of paying for fireflow capacity and the Utility has passed along this increased cost of business to customers within the City of Bellevue; and

WHEREAS, the Bellevue Utilities Department provides water service and fireflow capacity service to customers located outside of the City of Bellevue, in the cities of Clyde Hill, Issaquah, Kirkland and Medina, in the towns of Hunts Point and Yarrow Point, and in unincorporated King County, and which customers have not been charged for fireflow capacity charges since the costs were transferred to Bellevue's General Fund; and

WHEREAS the cities of Clyde Hill, Issaquah, Kirkland, and Medina, and the towns of Hunts Point and Yarrow Point, and King County have not paid the cost of fireflow capacity for residents and businesses within their respective jurisdictions for the period from January 1, 2010 to date; and

WHEREAS, applying the utility occupation tax on all gross income of the water utility will allow the City and the Utility to account for the actual costs of providing fireflow capacity to all customers of the utility, and will correct an inequity in charges to customers that has existed since 2010 thereby serving the public interest; and

WHEREAS the cities of Clyde Hill, Hunts Point, Issaquah, Kirkland, Medina, and Yarrow Point, and King County have agreed to recovery of the costs of fireflow capacity for residents and businesses within their jurisdictions through a city of Bellevue utility tax structure consistent with the methodology in place since 2010 for customers within Bellevue and the City of Bellevue has, through Ordinance No.

6040 effective as of March 1, 2012 applied the Water Utility Occupation Tax to the Water Utility's gross receipts received from customers within the Utility's entire service area; now, therefore,

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

Section 1. Collection of City Tax-Water on Outside-City Jurisdictions. To recover the utility occupation tax on water service, water consumption, and water standby capacity charges on residents and businesses in the cities of Clyde Hill, Issaquah, Kirkland, and Medina, the towns of Hunts Point and Yarrow Point, and King County, imposed on the Water Utility through Ordinance No. _____, the user charges set forth in Section 2 are hereby established and shall be collected from each user of water services provided by the Water Utility of the City of Bellevue.

Section 2. User Charges – Outside. The charges for each water service user outside Bellevue city limits shall be the sum of the domestic meter service charge plus the appropriate water consumption charge or charges plus the water standby capacity charges, all as established in Ordinance No. 5973, multiplied by the percentage indicated below for that city, town, or unincorporated area:

City or Town	Percentage
Clyde Hill	125.6380%
Hunts Point	121.6158%
Medina	116.3989%
Yarrow Point	119.3238%
Kirkland	112.2708%
Issaquah	112.2708%
Unincorporated King County	112.2708%

provided that the percentages set forth above may be administratively adjusted by the Utilities Department Director to reflect any increase or decrease in any franchise fee required to be paid to such city or town by the Utility.

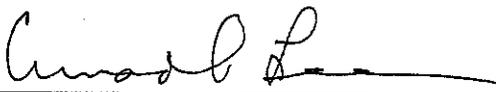
Section 3. Severability. If any section of this ordinance or any portion of any section of this ordinance, or its application to any person or circumstances is held invalid, the remainder of the ordinance or the application of the provision to other persons and circumstances shall not be affected.

Section 4. Effective Date. Sections 1 and 2 of this ordinance shall take effect on March 1, 2012, and shall apply to service provided on and after that date under all existing schedules of charges as of that date and shall remain in effect until amended by the City Council.

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

PASSED by the City Council this 23rd day of January, 2012, and signed in authentication of its passage this 23rd day of January, 2012.

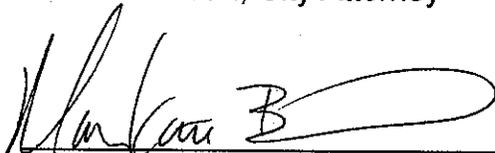
(SEAL)



Conrad Lee, Mayor

Approved as to form:

Lori M. Riordan, City Attorney



Mary Kate Berens, Deputy City Attorney

Attest:



Myrna L. Basich, City Clerk

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