



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ELIMINATING THE CITY’S UTILITY TAX ON WATER DISTRIBUTION AND SEWERAGE UTILITIES; AMENDING SECTION 3.41.030 OF THE LYNNWOOD MUNICIPAL CODE; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

WHEREAS, Chapter 35.21 RCW and RCW 35A.82.020 authorize the City to impose and collect excise taxes from persons conducting business within the City, including utilities; and

WHEREAS, pursuant to this authority, in Chapter 3.41 of the Lynnwood Municipal Code, the City Council has established a utility tax on certain utilities, including water distribution utilities and sewerage utilities (which includes certain surface water facilities); and

WHEREAS, COVID-19 is a respiratory disease that can result in serious illness or death, is caused by the SARS-CoV-2 virus, which is a new strain of coronavirus that was not previously identified in humans, and can easily spread from person to person; and

WHEREASE, on January 31, 2020, the United States Department of Health and Human Services declared a public health emergency based on COVID-19; and

WHEREAS, on February 29, the Governor of the State of Washington declared that a state of emergency exists due to COVID-19, and Snohomish County and other counties state-wide have issued similar declarations of emergency; and

WHEREAS, on March 4, 2020, the Snohomish County Health District issued a declaration of emergency regarding the COVID-19 pandemic, and other local health districts have done the same; also on March 4, 2020, the Mayor of the City of Lynnwood issued an emergency proclamation due to the serious threat to public health and safety caused by COVID-19, and mayors of cities throughout the State have done the same; and

WHEREAS, on March 23, 2020, Governor Inslee issued Proclamation 20-25, “Stay Home – Stay Healthy,” prohibiting all people in Washington State from leaving their homes or participating in gatherings of any kind regardless of the number of participants, and all non-essential businesses in the State were closed to the general public; and

1 WHEREAS, on May 4, 2020 Governor Inslee issued a Proclamation modifying the “Stay
2 Home – Stay Healthy” order, establishing a phased approach to re-opening the State, but the
3 phased re-opening is anticipated to require several months to be completely implemented; and
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5 WHEREAS, the COVID-19 pandemic has severely impacted the local economy, resulting
6 in the temporary or permanent closure of a significant number of local businesses, and also in a
7 substantial number of employees working from home, the cancellation of public events,
8 significant reduction in demand at restaurants and other local businesses, increased employee
9 lay-offs, and reduction in work hours; and
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11 WHEREAS, the social distancing and self-isolation measures needed to slow the spread
12 of COVID-19 have caused numerous residents and businesses in Lynnwood to suffer significant
13 financial loss, including loss of business income, lay-offs, and reduced hours and/or salary
14 reductions for a significant segment of the workforce; and
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16 WHEREAS, it is recognized that while the City’s utility tax is imposed on and collected
17 from the entities engaged in the operation of the utility business, the amount of the tax is
18 passed on to utility rate payers; and
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20 WHEREAS, as one means of addressing the financial hardships currently faced by
21 persons residing in and businesses located in Lynnwood, the City Council has determined that
22 the public interest is best served by eliminating the City’s utility tax on persons engaged in the
23 business of sewerage operations (which includes surface water drains and outfalls) and in the
24 business of water distribution operations; now therefore
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26 THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, DO ORDAIN AS
27 FOLLOWS:
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29 Section 1. Section 3.41.030 of the Lynnwood Municipal Code is hereby amended as follows:
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31 **3.41.030 Businesses subject to tax.**

32 There is hereby levied upon all persons engaged in business activities taxable under this
33 chapter a tax in the amounts to be determined by the application of the respective rates
34 against gross income of such taxpayer. Taxpayers engaged in or carrying on the business
35 shall be charged with collection of the tax as a condition of doing business, and the tax
36 shall be levied thereafter upon their subscribers at the rate set forth below.
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38 A. Upon every person engaged in or carrying on a telephone business, as defined in RCW
39 82.04.065, as said statute presently exists or is hereafter amended, a tax equal to six
40 percent of the total gross income, including revenues for intrastate toll, derived from
41 the operation of such business within the city. To the extent permitted by applicable
42 federal and Washington State law, any telecommunications services provided by a cable
43 operator (as defined in 47 U.S.C. Section 522(5)) or other persons over cable television
44 facilities owned or controlled by a cable operator shall be taxable hereunder.

1 B. Upon every person engaged in or carrying on the sale of cellular telephone service, a
2 tax equal to six percent of the total gross income derived from the operation of such
3 business within the city.

4 C. Upon every person engaged in the business of operating or providing pager service, a
5 tax equal to six percent of the total gross income derived from the operation of such
6 business within the city.

7 D. Upon every person engaged in or carrying on the business of cable television service,
8 a tax equal to six percent of the total gross income derived from the operation of such
9 business within the city.

10 E. Upon every person engaged in or carrying on the business of solid waste collection, a
11 tax equal to six percent of the total gross income derived from the operation of such
12 business within the city.

13 F. Upon every person engaged in or carrying on the business of electricity service, a tax
14 equal to six percent of the total gross income derived from the operation of such
15 business within the city.

16 G. Upon every person engaged in or carrying on the business of gas distribution, a tax
17 equal to six percent of the total gross income derived from the operation of such
18 business within the city.

19 ~~H. Commencing on January 1, 2015, upon every person engaged in or carrying on the~~
20 ~~business of sewerage operation (which includes surface water drains and outfalls), a tax~~
21 ~~equal to six percent of the total gross income derived from the operation of such~~
22 ~~business within the city.~~

23 ~~I. Commencing on January 1, 2015, upon every person engaged in or carrying on the~~
24 ~~business of water distribution operation, a tax equal to six percent of the total gross~~
25 ~~income derived from the operation of such business within the city.~~

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28 Section 2. Pursuant to LMC 3.41.150, the change in rate of tax on persons engaging in or
29 carrying on the business of sewerage operations or the business of water distribution
30 operations, as stated in Section 1 of this Ordinance, shall not take effect until 60 days following
31 the enactment of this Ordinance.

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33 Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance should be
34 held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or
35 unconstitutionality shall not affect the validity or constitutionality of any other section,
36 sentence, clause or phrase of this Ordinance.

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38 Section 4. Effective Date. This Ordinance or a summary thereof consisting of the title shall be
39 published in the official newspaper of the City, and shall take effect and be in full force five (5)
40 days after publication.

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43 PASSED BY THE CITY COUNCIL, the _____ day of _____, 2020.
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APPROVED:

Nicola Smith, Mayor

ATTEST/AUTHENTICATED:

Karen Fitzthum, City Clerk

APPROVED AS TO FORM:

Rosemary Larson, City Attorney

FILED WITH ADMINISTRATIVE SERVICES: _____
PASSED BY THE CITY COUNCIL: _____
PUBLISHED: _____
EFFECTIVE DATE: _____
ORDINANCE NUMBER: _____