ORDINANCE NO. 2012-3

AN ORDINANCE OF THE TOWN OF EATONVILLE, WASHINGTON, RELATING TO UTILITY TAXES, AMENDING EMC 3.30.010 AND 3.30.020, ADDING NEW SECTIONS TO CHAPTER 3.30 EMC, AND PROVIDING FOR SAVINGS, A SUNSET DATE, SEVERABILITY, AND EFFECTIVE DATES.

WHEREAS, the Town of Eatonville's has suffered from decreased revenues,

WHEREAS, the Town needs to temporarily increase revenue to meet its expenditure obligations to provide the services demanded by the Town's residents, and

WHEREAS, the Town has already cut significant expenses by reducing its workforce,

THEREFORE, BE IT ORDAINED by the Council of the Town of Eatonville as follows:

Section 1. Section 1 of Ordinance 2003-17, codified as EMC 3.30.010, is amended to read as follows:

3.30.010 Utility tax – Established.

The tax provided for in this chapter shall be ~~a tax on the gross earnings of certain town utilities~~ known as the "utility tax" and shall be measured by the application of rates against the gross income of business from customers within the limits of the town of Eatonville. ~~upon gross earnings of revenues derived from electric, water, sewer, garbage, and storm drain service to the town of Eatonville.~~

Section 2. A new section is added to chapter 3.30 of the Eatonville Municipal Code, to be entitled "Definitions", and to be codified as EMC 3.30.015, to read as follows:

3.30.015 Definitions.

As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings:

A. "Cable television services" means the one-way transmission of video programming and associated nonvideo signals to subscribers together with subscriber interaction, if any, which is provided in connection with video programming.

B. "Gross proceeds of sale" or "gross income of business" or "gross revenue" 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 for losses.

C. "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.

D. "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, vial satellite or any other form of voice or data transmission.

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

F. "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.

G. "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.

1. "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.

2. "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 RCW Title 80 and for which a separate charge is made.

Section 3. Section 2 of Ordinance 2003-17, codified as EMC 3.30.020, is amended to read as follows:

3.30.020 Utility tax – Water, Sewer, Solid Waste, Storm Drain, and Cable Television.

~~The~~ There is ~~tax shall be~~ levied upon and there shall be collected from every person at a rate of ~~five~~ six percent per annum on the gross income of business ~~revenues~~ of ~~certain~~ the following utility services: ~~including~~ ~~Electric,~~ Water, Sewer, ~~Garbage~~Solid Waste Collection Business, ~~and~~ Storm Drain, and Cable Television Services.

Section 4. A new section is added to chapter 3.30 of the Eatonville Municipal Code, to be entitled "Utility tax – Telephone", and to be codified as EMC 3.30.030, to read as follows:

3.30.030 Utility tax – Telephone

Effective August 1, 2012, and thereafter, there is levied upon and there shall be collected from every person engaged in carrying on telephone business and/or pager service within or partly within the city limits an annual tax for the privilege of so doing, such tax to be equal to six percent of the total gross revenues received from the operation of such businesses within the town limits.

Section 5. A new section is added to chapter 3.30 of the Eatonville Municipal Code, to be entitled "Utility tax – Light and Power Business", and to be codified as EMC 3.30.040, to read as follows:

3.30.040 Utility tax – Electricity, Light and Power.

There is levied upon and there shall be collected from every person engaged in carrying on light and power business an annual tax for the privilege of so doing, such tax to be equal to five percent of the total gross revenues received from the operation of such businesses within the town limits. On August 1, 2012, and thereafter, such tax shall increase to six percent of the total gross revenues received from the operation of such businesses within the town limits.

It is the intent of Council that the tax described in this section is the same tax of "Electric" utilities levied under Sections 1 and 2 of Ordinance 2003-17, and that said tax continue unchanged until July 16, 2012, at such time the rate shall increase as provided in this section.

Section 6. If any clause, sentence, paragraph, section, or part of this ordinance of the application thereof to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any parts thereof to any person or circumstances and to this end the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

Section 7. Ordinance 2003-17, which is amended by this ordinance, shall remain in full force and effect until this ordinance takes effect.

Section 8. This ordinance shall expire and cease all effect on February 1, 2013, at which time Sections 1 through 5 shall be repealed. Absent future Council action to the contrary, Ordinance 2003-17 will be re-enacted and will be of full force and effect as if it was never amended on February 1, 2013.

Section 9. This ordinance shall take effect on June 1, 2012, PROVIDED that pursuant to RCW 35.21.865, the rate changes described in Sections 4 and 5 of this ordinance shall not take effect until August 1, 2012, or after sixty days have elapsed following the enactment of this ordinance, whichever is later.

1ST READING: 05/14/2012
2ND READING: __/__/2012 / 2ND READING WAIVED (EMC 2.04.009(C))

Passed by the Council of the Town of Eatonville at a regular meeting held this _____ day of _____, 2012.

_____
Ray Harper, Mayor

ATTEST:

_____
Town Clerk

APPROVED AS TO FORM:

_____
Town Attorney