

ORDINANCE NO. 608

AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, RELATING TO LICENSING FOR REGULATION AND REVENUE; AUTHORIZING A BUSINESS LICENSE FEE AND CERTAIN REPORTING REQUIREMENTS ON BUSINESSES AND FACILITIES ENGAGED IN SOLID WASTE HANDLING, MATERIAL RECOVERY AND RELATED ACTIVITIES; AMENDING CHAPTER 3.33 AND ADDING A NEW CHAPTER 5.03 OF THE WOODINVILLE MUNICIPAL CODE; AUTHORIZING SUMMARY PUBLICATION BY TITLE ONLY; AND, PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO.

THE CITY COUNCIL OF THE CITY OF WOODINVILLE, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. RECITALS AND FINDINGS.

1.1 The City of Woodinville ("City") is a code city expressly authorized by law to license persons and companies doing businesses in the City, including the authority to establish excises for regulation or revenue. RCW 35A.82.020 and WMC 3.33.010. And, under the City's omnibus authority at RCW 35A.11.020, the City has the same authority as a first-class city under RCW 35.22.280(32) to grant licenses for any lawful purpose. Washington courts find this statute authorizes cities to license for revenue.

1.2 The City has a substantial interest in and concern for solid waste management and solid waste handling. In *Weyerhaeuser v. Pierce County*, 124 Wn.2d 26, 873 P.2d 498 (1994), our Supreme Court reiterated its long-established position that handling and disposal of solid waste are governmental functions. That ruling applies to both private and public facilities, and such facilities and their operations are subject to substantial regulation necessary for the public health, safety, and general welfare. Further, solid waste collection in the State must be authorized by a city or by the Washington Utilities and Transportation Commission.

1.3 Consistent with its authority under Chapter 70.95 RCW, the City contracts with King County for Solid Waste Management planning. All solid waste handling facilities are permitted consistent with the adopted King County Comprehensive Solid Waste Management Plan, including such facilities that may now or in the future operate in the City. Such facilities are issued operating permits by the King County Department of Public Health ("Public Health").

1.4 For example, one facility is the Cascade Recycling Center. That facility is permitted by Public Health as an "Intermediate Solid Waste Handling Facility," and "Material Recovery Facility." That permit includes authority to receive construction and demolition materials.

1.5 The City is committed to the State's and King County's recycling programs and goals. However, recyclable materials remain within the definition of solid waste under RCW 70.95.030(22); and, recycling and material recovery facilities continue to create burdens on local communities like the City. For example, the current (2016) Public Health Solid Waste Facility Permit for Cascade Recycling Center recognizes that litter is a daily, "on-going problem at this facility." Not all of that litter is confined to the site, whether litter is from the facility operations or from motor vehicles transporting materials to the facility.

1.6 There is a substantial nexus and reasonable relationship between solid waste handling facilities in the City and the benefits conferred by the City. The City provides an environment of services and protections, including: police protection and response; roads and traffic control; litter, noise and other pollution response and control; and, community services. That environment of services enables businesses to engage in activities that are subject to the City's regulation and excise. The City is not aware of other businesses or industries that have a similar impact on the community, but will continue to evaluate the ongoing impact and demands of other businesses on the City.

1.7 This Ordinance, through amendments to Chapter 3.33 and a new Chapter 5.03 Woodinville Municipal Code ("WMC"), establishes a new City license requirement and excise on the business of solid waste handling, including handling of recyclables and material recovery.

SECTION 2. WMC 3.33.020 AMENDED. WMC 3.33.020 is amended to read as follows, with new text shown by underline; and deleted text shown by strikethrough:

3.33.020 Definitions.

Unless the context clearly indicates otherwise, the words, phrases and terms used in this chapter shall have the following meanings:

(1) "Cellular telephone service" means a two-way voice and data telephone/telecommunications system based in whole or substantially in part on wireless radio communications and which is not subject to regulation by the Washington Utilities and Transportation Commission (WUTC). This 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 a purpose similar to cellular mobile service.

(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.

(3) “Gross income” means the value proceeding or accruing from the sale of tangible property or service, and receipts (including all sums earned or charged, whether received or not) by reason of investment of capital in the business engaged in (including rentals, royalties, receipts, or proceeds from the use or sale of real property or any interest therein, and proceeds from the sale of notes, bonds, mortgages or other evidence of indebtedness, or stocks and the like) and without any deduction on account of the cost of the property sold, cost of materials used, labor costs, interest or discount paid, or any expenses whatsoever, and without any deduction on account of losses. Further deductions and exceptions from gross income upon which the fee or tax described in this chapter is computed are set forth in WMC 3.33.080.

(4) “Person” means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, corporation, joint venture, club, company, joint stock company, business trust, public utility districts, municipal corporation or department thereof, public or private utilities, and all other associations, whether acting by themselves or by servants, agents or employees.

(5) “Solid waste” has the same meaning as in RCW 70.95.030(22).

(6) “Solid waste handling” shall mean carrying on the business for hire or for sale of a commodity or a service, within or partly within the corporate limits of the City, for receipt, processing, handling, transfer or transportation all putrescible and non-putrescible solid and semisolid wastes including but not limited to, garbage, rubbish, refuse, industrial waste, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities, and recyclable materials, including those solid wastes that are separated for recycling or reuse, including but not limited to, such materials as papers, cardboard, metals and glass, fiber, containers, wood, and construction, demolition and land clearing debris (CDL), compostable material, electronic waste, and yard debris. This definition includes the handling of containerized solid waste. This definition applies to all public, private, industrial, commercial or agricultural facilities and operations related to solid waste handling. Provided, solid waste handling does not include the activities of a solid waste collection company or solid waste collection as defined in RCW 81.77.010 (7) and (8); or, the trucking or rail transport of solid waste to, through or from the City, or rail handling of solid waste.

(7) ~~(5)~~ “Tax year or taxable year” means the year commencing January 1st and ending on December 31st of such year, or in lieu thereof the taxpayer’s fiscal year when permission is obtained from the Finance Director to use the same as the tax period.

~~(8)~~ ~~(6)~~ “Taxpayer” means any person liable for the license fee or tax imposed by this chapter.

~~(9)~~ ~~(7)~~ “Telephone business” 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, toll line or channel, cable, microwave, or similar communication or transmission system. Telephone business includes the provision of transmission to and from the site or an Internet provider via a local telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. It also includes cooperative or farmer line telephone companies or associations operating an exchange. Telephone business does not include the providing of competitive telephone service, the providing of cable television service,

the providing of broadcast services by radio and television stations, nor the provision of Internet service as defined in RCW 82.04.297, including the reception of dial-in-connection, provided at the site of the Internet service provider.

SECTION 3. WMC 3.33.030 AMENDED. WMC 3.33.030 is amended to read as follows, with new text shown by underline; and deleted text shown by strikethrough:

3.33.030 License required.

On and after April 1, 1998, no person shall engage in any business, occupation or activity in the City for which a tax is imposed by WMC 3.33.040 without first having obtained and being the holder of a valid license in compliance with Chapter 5.02 WMC ~~do so, to be known as a “utility occupation license.”~~ The City shall be exempt from such license requirement. ~~The annual license fee for such license shall be \$20.00. Each such person shall promptly apply to the Finance Director for such license upon such forms as the Finance Director shall prepare and provide, giving such information as the Finance Director shall deem reasonably necessary to enable the Finance Director to administer and enforce this chapter; and upon acceptance of such application by the Finance Director, the Finance Director shall thereupon issue such license to the applicant. Such utility occupation license shall be personal and nontransferable and shall be valid as long as the licensee shall continue in the business and shall comply with this chapter.~~

SECTION 4. NEW SECTION. A new section 3.33.045 WMC is added, as follows, with new text shown by underline:

3.33.045 Solid Waste Handling Excise.

From and after July 1, 2016, or such later date as otherwise provided in Ordinance No. 608, there is levied upon, and there shall be collected from, every person engaged in carrying on the business of solid waste handling, as licensed under Chapter 5.03 WMC, an excise at the rate of twenty-five cents (\$.25) per ton of solid waste received. In determining the weight of solid waste, the City may rely upon certified weight receipts reported to King County Department of Public Health or other reliable sources. To avoid compounding of the excise under this section, the excise is imposed only upon the total tonnage of solid waste received at a licensed facility, and not on subsequent transfer or transport of solid waste from the licensed facility. Whenever the term “tax” is used in this Chapter 3.33 WMC, it shall also include the excise established by this section.

SECTION 5. NEW CHAPTER 5.03 WMC. A new Chapter 5.03 WMC is added, as follows, with new text shown by underline:

Chapter 5.03 – Solid Waste Handling.

Sections:

<u>5.03.010</u>	<u>Definitions.</u>
<u>5.03.020</u>	<u>License Endorsement.</u>
<u>5.03.030</u>	<u>Fees and Excises.</u>
<u>5.03.040</u>	<u>Reporting and Records.</u>
<u>5.03.050</u>	<u>General.</u>

5.03.010 Definitions.

The definitions at WMC 3.33.020 apply to this Chapter 5.03 WMC.

5.03.020 License Endorsement.

On and after July 1, 2016, or such later date as otherwise provided in Ordinance No. 608, a person or persons may not engage in any solid waste handling business, occupation or activity in the City without first having obtained and being the holder of a valid license under Chapter 5.02 WMC, including an endorsement on that license for solid waste handling. The endorsement shall be issued by the City upon presentation of an operating permit issued by the King County Department of Public Health for a facility. If a facility does not require an operating permit from the King County Department of Public Health, a City application form for the endorsement shall be completed and filed with the City.

5.03.030 Fees and Excises.

The City does not impose any additional fee or excise for the business license solid waste handling endorsement beyond that required under WMC 5.02.080 and under WMC 3.33.045.

5.03.040 Reporting and Records.

(1) Solid waste handling facilities must file with the City all reports regarding the facility that are filed by the licensee with the King County Department of Public Health or with the Washington Department of Ecology. Any information in such reporting that is confidential under law may be designated as confidential information in any filing with the City. The City will not release such designated confidential reporting without first notifying the license holder. Any solid waste handling facility not reporting to the King County Department of Public Health or the Washington Department of Ecology must report to the City on forms provided by the City. Any requirement under chapter 42.56 RCW will control over the provisions of this section.

(2) It is the duty of each licensee under this Section to keep and enter in a proper book or set of books or records an account that accurately reflects the amount of tons of solid waste received, which account must be open at all reasonable times to the inspection of the Finance Director or the Finance Director's duly authorized agent.

5.03.050 General.

Except as provided in this Chapter 5.03 WMC and at WMC 3.33.045, Chapter 5.02 WMC remains applicable to a licensee with a solid waste handling endorsement.

SECTION 6. WMC 3.33.140 AMENDED. WMC 3.33.140 is amended to read as follows, with new text shown by underline; and deleted text shown by strikethrough;

3.33.140 Approved uses.

Up to 75 percent of these monies may be used for any legal governmental purpose; and the remainder shall be spent on street improvement projects identified in the City's Capital Improvement Program, subject to one or more of the following criteria: congestion relief, safety improvements, to leverage substantial grant or development contributions, or to fully fund or

accelerate project(s) in the City's adopted Capital Improvement Program. This section WMC 3.33.140 shall have no application to City revenues from the excise levied under WMC 3.33.045.

SECTION 7. SEVERABILITY. The provisions of this Ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Ordinance, or the invalidity of the application thereof to any person or circumstance does not affect the validity of the remainder of this Ordinance, or the validity of its application to other persons or circumstances.

SECTION 8. RATIFICATION. Any act consistent with the authority taken after passage but prior to the effective date of this Ordinance is ratified and confirmed.

SECTION 9. EFFECTIVE DATE - REFERENDUM.

9.1 This Ordinance shall be subject to a referendum petition under RCW 35.21.706. A referendum petition may be filed, if at all, within seven days of passage of the ordinance with the City Clerk. Within ten days, the City Clerk shall confer with the petitioner concerning form and style of the petition, issue the petition an identification number, and secure an accurate, concise, and positive ballot title from the City Attorney. The petitioner shall have thirty days in which to secure the signatures of not less than fifteen percent of the registered voters of the City, as of the last municipal general election, upon petition forms which contain the ballot title and the full text of the measure to be referred. The City Clerk shall verify (or provide for verification through the King County Elections Department) the sufficiency of the signatures on the petition and, if sufficient valid signatures are properly submitted, shall certify the referendum measure to the next election ballot within the City or at a special election ballot as provided pursuant to RCW [35.17.260\(2\)](#).

9.2 Under RCW 35.21.706, this referendum procedure shall be exclusive and shall supersede the procedures provided under chapter [35A.11](#) RCW and all other statutory provisions for initiative or referendum which might otherwise apply.

9.3 This Ordinance is effective five (5) days after publication of an approved summary consisting of this Ordinance's title. Notwithstanding the forgoing, the Ordinance shall not take effect until after the conclusion of a referendum procedure recognized herein.

**ADOPTED BY THE CITY COUNCIL AND SIGNED IN AUTHENTICATION OF ITS
PASSAGE THIS __ DAY OF _____, 2016.**

Bernard W. Talmas, Mayor

ATTEST/AUTHENTICATED:

By: _____
Jennifer Kuhn, CMC, City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: _____
City Attorney

PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO. 608

*5-3-2016 1st Reading Passed
5-17-2016 Motion to Continue this agenda item, Second Reading & Adoption of Ordinance No.
608, subject to recall. Vote 5 Ayes 0 Nays*