

ORDINANCE NO. 1803

AN ORDINANCE OF THE CITY OF CHULA VISTA AMENDING SECTIONS 3.44.010, 3.44.030, 3.44.040, 3.44.050, 3.44.140, 3.44.150, 3.44.160 AND REPEALING SECTION 3.44.022 OF THE CHULA VISTA MUNICIPAL CODE RELATING TO THE UTILITY USERS' TAX

The City Council of the City of Chula Vista does ordain as follows:

SECTION I: That Sections 3.44.010, 3.44.030, 3.44.040, 3.44.050, 3.44.140, 3.44.150 and 3.44.160 of the Chula Vista Municipal Code be, and the same are hereby amended to read as follows:

CHAPTER 3.44 UTILITY USERS' TAX.

Sec. 3.44.010 Purpose and Intent-Definitions.

In amending the utility users' tax ordinance, it is the purpose and intent of the City Council to achieve three major goals. First, it is necessary and desirable to generate for fiscal year 1978-79 a minor increase in revenue from the utility tax while retaining the program of basing the taxation on units of energy used to benefit both business enterprises and smaller utility using taxpayers to supplement the revenues derived from the distribution of the surplus by the State of California. Second, it is essential to provide an additional increase in the utility users' tax in order to insure a reasonable level of revenue for the necessary operations of the City of Chula Vista in fiscal year 1979-80 and beyond if no state surplus assistance is then available, and if there has been no governmental reorganization achieved which would provide necessary tax relief to local governments. Third, both the major commercial and industrial enterprises of the city utilizing energy and providing both productivity and employment as well as the smaller utility using taxpayers must be protected from increases in the tax brought about by the increases of rates granted by the Public Utilities Commission. These goals can best be accomplished by establishing an increase in the present factors to .00250 per kilowatt of electricity and .00919 per therm of gas for fiscal year 1978-79, and secondly, by establishing a second increase in said factors to .00300 per kilowatt of electricity and .01103 per therm of gas commencing on July 1, 1979 and establishing a 5% tax rate based upon gross receipts for fiscal year 1978-79 and 6% commencing on July 1, 1979 for telephone and subjecting said tax rates to semi-annual adjustments after appropriate public hearings are conducted by the City Council. In addition, the City Council is authorized herein to waive all or a portion of the tax for major commercial and industrial enterprises as well as providing a clear exemption for senior citizens in order to insure the most equitable application of the tax.

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter.

- A. "Month" means a calendar month for purposes of the delivery of collected taxes by the utility companies to the city, and the billing period for the service user for the purpose of collection of the tax by the utility companies from the service user.

- B. "Person" means any individual, firm partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation (except public utilities), estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.
- C. "Public utility" as used herein has the same meanings as defined in Sections 218, 222 and 234, respectively, of the Public Utilities Code of the State of California as said sections existed on September 1, 1970.
- D. "Service User" means a person required to pay a tax imposed under the provisions of this chapter.

Sec. 3.44.030 Telephone Users' Tax-Imposition-  
Rate-Collection-Exemptions-Charges  
Defined.

- A. There is imposed a tax upon every person in the city using intrastate telephone communication services in the city. The tax imposed by this section shall be at the rate of five percent of the charges made for such services, and shall be paid by the person paying for such services. Effective on July 1, 1979, said rate shall be increased to six percent of the charges made for such services and shall be paid by the person paying for such service.
- B. As used in this section, the term "charges" shall not include charges for services paid for by inserting coins in coin-operated telephones except that where such coin-operated telephone service is furnished for a guaranteed amount, the amounts paid under such guarantee plus any fixed monthly or other periodic charge shall be included in the base for computing the amount of tax due. The term "charges" shall not include charges for services paid for by users of mobile telephone and marine telephone service.
- C. Notwithstanding the provisions of subsection A, the tax imposed under this section shall not be imposed upon any person for using intrastate telephone communications services to the extent that the amounts paid for such services are exempt from or not subject to the tax imposed under Section 4251 of Title 26 of the United States Code, as such section existed on September 1, 1970.
- D. The tax imposed in this section shall be collected from the service user by the person providing the intrastate telephone communications services. The amount of tax collected in one month shall be remitted to the city finance officer on or before the twentieth day of the following month.

- A. There is imposed a tax upon every person in the city using electrical energy in the city. The tax imposed by this section shall be at a rate established by the imposition of the factor of .00250 for each kilowatt of such energy used and shall be paid by the person paying for such energy. Effective on July 1, 1979, the tax imposed by this section shall be at a rate established by the imposition of the factor of .00300 for each kilowatt of such energy used and shall be paid by the person paying for such energy. "Charges" as used in this section shall include charges made for metered energy and minimum charges for service, including customer charges, service charges, service establishment charges, demand charges, standby charges, and annual and monthly charges.
- B. As used in this section, the term "using electrical energy" shall not be construed to mean the storage of such energy by a person in a battery owned or possessed by him for use in an automobile or other machinery or device apart from the premises upon which the energy was received; provided, however, that the term shall include the receiving of such energy for the purpose of using it in the charging of batteries; nor shall the term include the mere receiving of such energy by an electric public utility at a point within the city for resale.
- C. There shall be excluded from such tax all electricity used by a public utility in the conduct of its business.
- D. The tax imposed in this section shall be collected from the service user by the person supplying such energy. The amount of tax, computed by application of the factors set forth hereinabove for each kilowatt of energy used each month, less the tax-exempt accounts and reduced by previous months' uncollectible accounts upon which said tax was applied, shall be remitted to the city finance officer on or before the last day of the month following the close of the taxing period. It is understood that the amount of said uncollectible accounts or "bad debts" shall be determined on the basis of the current month's bad debts, less collections of previously deducted bad debts.
- E. The city shall assume full responsibility for rebates to any fully or partially exempted users after the utility company has collected and remitted said accounts in full to the city.'

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Sec. 3.44.050

Gas Users' Tax-Imposition-Rate-  
Collection-Exemptions-Rebates.

- A. There is imposed a tax upon every person in the city using in said city gas which is delivered through mains or pipes. The tax imposed by this section shall be at a rate established by the imposition of the factor of .00919 for each therm of such energy used and shall be paid by the person paying for such energy. Effective on July 1, 1979, the tax imposed by this section shall be at a rate established by the imposition of the factor of .01103 for each therm of such energy used and shall be paid by the person paying for such energy. "Charges" as used in this section shall include charges made for metered gas and minimum charges for service, including customer charges, service charges, service establishment charges, demand charges, standby charges, and annual and monthly charges.
- B. There shall be excluded from such tax all gas used by a public utility in the conduct of its business.
- C. The tax imposed in this section shall be collected from the service user by the person selling the gas. The amount of tax, computed by application of the factors set forth hereinabove for therms of energy used each month, less the tax exempt accounts and reduced by previous months' uncollectible accounts upon which said tax was applied, shall be remitted to the City Finance Officer on or before the last day of the month following the close of the taxing period. It is understood that the amount of said uncollectible accounts for bad debts shall be determined on the basis of the current month's bad debts, less collections of previously deducted bad debts.
- D. The City shall assume full responsibility for rebates to any fully or partially exempted users after the utility company has collected and remitted said accounts in full to the City.

Sec. 3.44.140

Effective Date-Billing Procedure.

The taxes for fiscal year 1978-79 imposed by this chapter shall become operative as of July 1, 1978; provided, however, that the utility companies shall compute and impose the utility users' tax upon said users for the charges set forth in this chapter at the commencement of the billing period for said users arising from and after July 1, 1978, for services provided to said users in accordance with accepted billing practices of said utility companies, so that there will be no need to prorate said utility users' tax. The tax imposed for fiscal years 1979-80 and beyond shall be operative as of July 1, 1979.

Sec. 3.44.150

Public Hearing Requirements.

Not later than November 30, 1978, the City Council shall conduct a public hearing to consider whether or not the tax rate as established herein shall be repealed or decreased and thereafter each year not later than the time the City Council schedules its public hearing for the adoption of a budget and not later than November 30, the City Council shall conduct public hearings to evaluate the effect of the current utility users' tax rate being imposed within the maximum limitation of the factor of .00300 for each kilowatt of such energy and .01103 for each therm of such energy used, and shall make the appropriate adjustment thereto to achieve the purpose and intent as set forth in this chapter. The rate established at said public hearing shall remain in effect to and until the subsequent public hearing at which time it may be modified or kept at the same level so long as any such modification shall not exceed the maximum set forth hereinabove and should the Council fail to take any affirmative action in so modifying said maximum rate, the maximum rate shall be deemed to be in full force and effect until the time required for the subsequent public hearing.

Sec. 3.44.160

Violations Deemed Infractions.

Any person who wilfully attempts in any manner to avoid or defeat the tax imposed by this chapter or the payment of all or any part thereof, or any person required by this chapter to pay the tax, to make a return, to keep any records, or to supply any information, who wilfully fails to pay all or any part of such tax, make such return, keep such records, or supply such information at the time or times required by this chapter shall be guilty of an infraction.

SECTION II: That Section 3.44.022 of the Chula Vista Municipal Code be, and the same is hereby repealed.

SECTION III: This ordinance shall become effective upon first reading and adoption.

Presented and Approved as to Form by



George D. Lindberg, City Attorney

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF

CHULA VISTA, CALIFORNIA, AT FIRST READING THIS 29th DAY OF June,  
1978, by the following vote, to-wit:

AYES:	Councilmen	<u>Hyde, Gillow, Cox</u>
NAYES:	Councilmen	<u>Scott, Egdahl</u>
ABSTAIN:	Councilmen	<u>None</u>
ABSENT:	Councilmen	<u>None</u>

Will T. Hyde  
Mayor of the City of Chula Vista

ATTEST Jennie M. Fulasz  
City Clerk

STATE OF CALIFORNIA    )  
COUNTY OF SAN DIEGO   ) ss.  
CITY OF CHULA VISTA    )

I, JENNIE M. FULASZ, CMC, CITY CLERK of the City of Chula Vista, California,  
DO HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of  
\_\_\_\_\_, and that the same has not been amended or repealed.

DATED \_\_\_\_\_

(seal) \_\_\_\_\_  
City Clerk