

Ordinance No. 00519

[City Council meeting minutes of September 20 2010](#)

ORDINANCE NO. 519

AN ORDINANCE of the City of Lakewood, Washington, creating Chapter 3.54 of the Lakewood Municipal Code, instituting a brokered natural gas use tax as provided for in Revised Code of Washington section 82.14.230.

WHEREAS, since 1999 the City of Lakewood has imposed a utility tax upon entities engaging in the business of selling, brokering or furnishing artificial, natural or mixed gas within the City; and,

WHEREAS, pursuant to RCW 82.14.230, the state of Washington has authorized cities to impose a use tax on natural or manufactured gas under certain circumstances; and,

WHEREAS, the use tax proposed through this Ordinance will be equivalent in rate and alternative to the utility tax currently in force within the City and the use tax authorized hereunder shall apply specifically to consumers of brokered natural or artificial gas; and,

WHEREAS, the taxes collected through this Ordinance will be paid by the gas consumer, collected by the state of Washington and thereafter remitted to the City of Lakewood as a use tax.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON DO ORDAIN as follows:

Section 1. A new Chapter 3.54 (Brokered Natural Gas Use Tax) of the Lakewood Municipal code is hereby established to read as follows:

Chapter 3.54 - Brokered Natural Gas Use Tax

Sections:

3.54.010 - Definitions

3.54.020 - Brokered Natural Gas Use Tax

3.54.030 - Appeal, Administration and Enforcement

3.54.010 - Definitions

The definitions contained within LMC Chapter 3.52 are hereby incorporated into this Chapter by reference. In construing, administering, interpreting or collecting the tax authorized by this Chapter, authorized representatives of the Washington State Department of Revenue may rely upon relevant definitions as contained within RCW Title 82.

Section 3.54.010 - Brokered Natural Gas Use Tax

A. Pursuant to RCW 82.14.230, there is hereby fixed and imposed on every person a use tax for the privilege of using natural gas or manufactured gas in the City as a consumer.

B. The amount of the tax imposed is an amount equal to the value of the article used by the taxpayer in the City, multiplied by the tax

rate specified in LMC 3.52.050 (D) for artificial, natural or mixed gas utility businesses. The "value of the article used" does not include any amounts that are paid for the hire or use of a natural gas business in transporting the gas subject to tax under this subsection if those amounts are subject to tax under LMC 3.52.050 (D).

C. There may be exempted from taxation value otherwise taxable if the person who sold the gas to the consumer has already paid a tax under LMC 3.52.050 (D) with respect to the gas for which exemption is sought under this subsection.

D. There is a credit against the tax levied under this section in an amount equal to any tax paid by the person:

who sold the gas to the consumer when the tax is a gross receipts tax similar to that imposed pursuant to RCW 35.21.870, as implemented in LMC 3.52.050 (D), by another state with respect to the gas for which a credit is sought under this subsection; or

consuming the gas upon which a use tax similar to the tax imposed by this section was paid to another state with respect to the gas for which a credit is sought under this subsection.

E. The use tax hereby imposed is paid by the consumer. The administration and collection of the tax shall be conducted by the Washington State Department of Revenue (DOR), pursuant to RCW 82.14.050, and the DOR may deduct a percentage amount not to exceed two percent of the taxes collected. Funds collected through this use tax shall be distributed to the City and may be used to make refunds as the DOR may determine.

3.54.030 - Appeal, Administration and Enforcement

A. As stated in RCW 82.14.050, the City Manager is hereby authorized to enter all necessary contracts with the State for the purpose of facilitating the administration and collection of this tax. Administration and collection of the taxation program authorized under this Chapter shall be conducted by the State of Washington pursuant to the provisions of RCW Title 82, as the same exist or may hereafter be amended. The Department of Revenue may adopt additional rules and regulations, and undertake administrative actions in accordance with the state Administrative Procedures Act, to facilitate the enforcement, administration and collection of the tax authorized herein as the Department of Revenue may deem necessary.

B. For the purpose of enforcing the collection of this tax and administering the taxation program authorized herein, the Washington State DOR shall the power to construe, interpret, administer and enforce the provisions of the Chapter. It is unlawful for any person to violate or fail to comply with any such rule, law or regulation.

C. Applications for refunds or credits of taxes paid pursuant to this Chapter shall be made to the Washington State Department of Revenue as stated in RCW Chapter 82.32 as the same exist or may hereafter be amended.

Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, or its application held inapplicable to any person, property or circumstance, such invalidity or unconstitutionality or inapplicability shall not effect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance or its application to any other person, property or circumstance.

Section 3. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after passage and after publication as required by law.

PASSED by the City Council this 20th day of September, 2010.

CITY OF LAKEWOOD

Douglas G. Richardson, Mayor

Attest:

Alice M. Bush, MMC, City Clerk

Approved as to form:

Heidi Ann Wachter, City Attorney