

Introduced By _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PASADENA AMENDING CHAPTER 4.56 OF THE PASADENA MUNICIPAL CODE (“UTILITY USERS TAX”) AND CONFIRMING THE LEGISLATIVE INTENT THAT THE TAX ON CHARGES FOR TELEPHONE COMMUNICATIONS NOT APPLY TO CHARGES FOR INTERNET ACCESS

THE PEOPLE OF THE CITY OF PASADENA ORDAIN AS FOLLOWS:

SECTION 1. Title 4, Chapter 4.56, Section 4.56.020 of the Pasadena Municipal Code, Definitions, is hereby amended to add a new definition to be inserted in alphabetical order following existing subsection F, to read as follows, with the remaining subsections re-lettered accordingly:

“Internet Access’ means the service of providing initial access to the internet and the data services it provides, whether by dial-up, broadband, cable modem or other technology, but does not mean telephone communications services using internet technology (such as voice over the internet protocol services) provided to one who otherwise has internet access.”

SECTION 2. Title 4, Chapter 4.56, of the Pasadena Municipal Code is hereby amended by adding a new Section 4.56.035 to read as follows:

“4.56.035 Exclusion of Internet Access from Telephone Tax. Nothing in section 4.56.030 (Telephone tax) is intended to include charges for Internet Access within the Scope of taxable charges for telephone communications services.”

12/10/2007
9.B.2.

SECTION 3. Legislative Intent.

A. Section 4.56.020 of the Pasadena Municipal Code imposes a utility users tax on charges for telephone communications services ("UUT"), and it is the City's administrative methodology within the meaning of subdivision (h) of Government Code § 53750 that the existing UUT does not apply to charges for internet access, although it does apply to charges for telephone services provide via the internet, such as voice over the internet protocol (VoIP) services. Measure D, an ordinance amending Chapter 4.56 of the Pasadena Municipal Code proposed for voter approval in February, 2008, is not intended to extend the UUT to charges for internet access. It is the intent of this ordinance to declare and maintain the City's administrative methodology, not to apply the UUT to charges for internet access whether or not the voters of the City approve Measure D. Pursuant to Proposition 218, Article XIII C of the California Constitution, this administrative methodology cannot be changed without additional voter approval beyond the approval of Measure D.

B. This ordinance is intended to amend Chapter 4.56 of the Pasadena Municipal Code and is intended to remain in effect notwithstanding voter approval or disapproval of Measure D in February, 2008.

SECTION 4. Severability. Should any provision of this ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this ordinance or the application of this ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 5. The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published in full text.

SECTION 6. This ordinance shall take effect upon publication.

Signed and approved this _____ day of _____, 2007.

Bill Bogaard
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting held this _____ day of _____, 2007, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Date Published:

Jane L. Rodriguez, CMC
City Clerk

APPROVED AS TO FORM:


Michele Beal Bagneris
City Attorney