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Chapter 5.08 UTILITY TAXES

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5.08.010 Purpose.

The provisions of the ordinance codified in this chapter shall be deemed to be an exercise of the power of the city to license for revenue.

(Ord. 251 § 1, 1981)

5.08.020 License required.

After January 1, 1982, no person, firm or corporation shall engage in or carry on any business, occupation, act or privilege for which a tax is imposed by [Section 5.08.030](#) without first having obtained, and being the holder of, a license so to do, to be known as an occupation license. Each such person, firm or corporation shall promptly apply to the city clerk-treasurer for such license upon such forms as the city clerk-treasurer shall prescribe, giving such information as the clerk-treasurer shall deem reasonably necessary to enable the clerk-treasurer's office to administer and enforce this chapter; and, upon acceptance of such application by the clerk-

treasurer, the clerk-treasurer shall thereupon issue such license to the applicant. The occupation license shall be personal and nontransferable and shall be valid as long as the licensee continues in the business and complies with this chapter.

(Ord. 251 § 2, 1981)

5.08.022 License fees—Time for payment—Penalty.

- A. The annual license fee for the occupation license issued pursuant to this chapter shall be sixty dollars. The fee for renewals shall be sixty dollars per year.
- B. The occupation license issued pursuant to this chapter shall be valid for the year in which it was issued only. Occupation license renewals must be acquired prior to the thirty-first day of January each year. A business which renews its occupation license after January 31st shall be subject to a penalty in addition to the regular license fee in the amount specified in subsection C of this section. No renewal license shall be issued until the regular license fee and the penalty have both been paid in full.
- C. Late Payment. In addition to any other penalties provided in this chapter, any business which fails to make application for an original occupation license, or fails to renew an existing license by January 31st shall be subject to the following penalties based on the number of days delinquent:

Days Delinquent	Penalty
1—30 days	\$10.00
31—60 days	20.00
61—90 days	30.00
91 days or more	Misdemeanor

(Ord. 849 § 1, 2007)

5.08.025 Definitions.

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

"Cable service" means: (1) the one-way transmission to subscribers of video programming or other programming service, and (2) subscriber interaction, if any, which is required for the selection by the subscriber of such video programming or other programming service.

"Cellular telephone service" is 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.

"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 may be provided by persons not subject to regulation as telephone companies under Title 80 RCW, and for which a separate charge is made. Transmission of communication through cellular telephones is classified as "telephone business" rather than "competitive telephone service."

"Gross income" means "gross income of the business" as defined in Section 82.04.080, Revised Code of Washington, and the city incorporates by reference that definition and any amendments or additions thereto.

"Sewerage system business" means and includes:

1. Sanitary sewage disposal sewers and facilities, including without limitation on-site or off-site sanitary sewer facilities consisting of an approved septic tank or septic tank systems, or any other means of sewage treatment and disposal;
2. Combined sanitary sewage disposal and storm or surface water drains and facilities;
3. Storm or surface water drains, channels and facilities;
4. Outfalls for storm drainage or sanitary sewage and works, plants, and facilities for storm drainage or sanitary sewage treatment and disposal;
5. Any combination of or part of any or all of such facilities.

"Solid waste collection service" means receiving solid waste from any facility or location within the city for transfer, processing, treatment, storage, or disposal, including, but not limited to, all collection services, public or private dumps or landfills, transfer stations, and other similar operations.

"Solid waste," for purposes of this chapter, means garbage, trash, rubbish, or other material discarded as worthless or not economically viable for further use, infectious, hazardous, or toxic wastes, and recyclable or reusable materials collected, in whole or part, for recycling or salvage.

"Telephone business" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. It includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice over Internet Protocol services or is classified by the Federal Communications Commission as enhanced or value added. Telecommunication services or telephone business also includes ancillary services that are associated with or incidental to the provision of telecommunication services including, but not limited to conference bridging, detailed telecommunications billing, directory assistance, vertical service, or voice mail services as defined in RCW 82.04.065. "Telephone business" also includes those activities previously used to define telephone business such as the business of providing access to a local telephone network, local telephone network switching service, toll service, cellular or mobile telephone service, coin telephone services, pager service 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. The term includes the provision of cooperative or farmer line telephone services or associations operating exchanges. The term also includes the provision of transmission to and from the site of an Internet provider via a local telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. "Telephone business" does not include the providing of competitive telephone service, data processing, providing of cable television service, or other providing of broadcast services by radio or television stations.

"Water distribution business" means the business of operating a plant or system for the distribution of water for hire or sale.

(Ord. 849 §§ 2, 3, 2007; Ord. 756 § 1, 2004; Ord. 631 § 1, 1998; Ord. 539 § 1, 1995)

5.08.030 Taxes levied.

Upon every person, firm or corporation engaged in carrying on the following types of business for hire or for sale of a commodity or a service within or partly within the corporate limits of the city shall be levied the following tax:

- A. Upon any telephone business there shall be levied a tax equal to six percent of the total gross income, including income from intrastate toll, derived from the operation of such businesses within the corporate limits of the city.
- B. Upon the sale, delivery or distribution of electricity and electrical energy and for the privilege of carrying on the business, there shall be levied a tax equal to six percent of the total gross operating revenue derived from sales of such electricity to ultimate users within the corporate limits of the city; provided, however, that there shall not be any tax levied for the installation charges of electrical units.
- C. Upon the sale of natural, manufactured or mixed gas for residential, commercial or industrial consumption and for the privilege of carrying on the business, there shall be levied a tax equal to six percent of gross operating revenues from such sales of natural, manufactured or mixed gas within the corporate limits of the city.
- D. Upon any sewerage system business, there shall be levied a tax equal to six percent of the total gross income derived from the operation of such business within or partly within the corporate limits of the city.
- E. Upon any water distribution system, there shall be levied a tax equal to six percent of the total gross income derived from the operation of such business within or partly within the corporate limits of the city.
- F. Upon every person or entity engaging in the business of providing solid waste collection service, there shall be levied a tax equal to six percent of the total gross income derived from the operation of such business within or partly within the corporate limits of the city.
- G. Upon any cable service there shall be levied a tax equal to one percent of the total gross income derived from operation of such service within the corporate limits of the city. Such tax shall be in addition to any cable franchise fee paid the city by such person, firm, or corporation. Effective

March 3, 2013, the cable utility tax rate shall increase from one percent to six percent.

- H. Upon any stormwater utility there shall be levied a tax equal to twelve percent of the total gross income derived from the operation of such utility within or partly within the corporate limits of the city. This stormwater utility tax shall be levied on services provided on and after January 1, 2013. Effective January 1, 2014, the stormwater utility tax rate shall increase from twelve percent to eighteen percent.

(Ord. No. 883, § 1, 12-23-2008; Ord. No. 988, § 1, 12-20-2012; Ord. No. 989, § 1, 12-20-2012)

5.08.035 Rate change.

No change in the rate of tax upon persons engaging in providing cellular telephone service shall apply to business activities occurring before the effective date of the change and, except for a change in the tax rate authorized by RCW 35.21.870, no change in the rate of the tax may take effect sooner than sixty days following the enactment of the ordinance establishing the change. The city administrator shall send to each cellular telephone service company, at the address on its license, a copy of any ordinance changing the rate of tax upon cellular telephone service promptly upon its enactment.

(Ord. 539 § 3, 1995)

5.08.040 When tax due—Reporting period.

- A. The tax imposed by this chapter shall be due and payable in monthly installments and remittance shall be made on or before a payment due date established by the city finance director, in consultation with the mayor or his or her designee. The payment due date shall be no sooner than the fourteenth day of the month following the end of the month in which the tax accrued.
- B. The payment due date may be amended from time to time when, in the determination of the finance director in consultation with the mayor or his her designee, adjustment is necessary to ensure adequate cash flow for the city or for other reasonable purposes, provided, at least thirty (30) days notice shall be given prior to any change in the due date.
- C.

At the finance director's discretion, businesses may be assigned to a quarterly reporting period depending on the tax amount owing, with the payment due date to be established by the finance director.

(Ord. 849 § 5, 2007; Ord. 251 § 4, 1981)

(Ord. No. 916, § 1, 7-16-2009)

5.08.045 Exceptions and deductions—Telephone business.

- A. There shall be excluded from the total gross income upon which the license fee or tax imposed by Section 5.08.030(A) is computed the following:
1. That portion of the gross income derived from charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges or carrier access charges relating to intrastate toll telephone charges, or for access to, or charges for, interstate services;
 2. Charges by a taxpayer engaging in a telephone business to a telecommunications company, as defined in RCW 80.04.010, for telephone service that the purchaser buys for the purpose of resale;
 3. Adjustments made to a billing or to a customer account or to a telecommunications company accrual account in order to reverse a billing or charge that had been made as a result of third-party fraud or other crime and was not properly a debt of a customer;
 4. Charges to subscribers passed on to compensate for the cost to the company of the tax imposed by this chapter.
- B. A deduction from gross income shall be allowed, only to cellular telephone service companies which keep the regular books of account on an accrual basis, for credit losses actually sustained by a taxpayer as a result of cellular telephone business which shall be phased in as follows: twenty percent of the credit losses occurring in 1995; forty percent of the credit losses occurring in 1996; sixty percent of the credit losses occurring in 1997; eighty percent of the credit losses occurring in 1998; and a complete deduction for the credit losses occurring in 1999 and thereafter.
- C.

A deduction from gross income shall be allowed to all other telephone business companies other than cellular telephone service companies, in the amount of credit losses and uncollectibles actually sustained by the taxpayer.

(Ord. 539 § 4, 1995)

5.08.050 Deductions from gross operating revenues—Electricity, natural gas, sewerage system business, water distribution system and solid waste collection.

In computing the tax imposed under Section 5.08.030(B), (C), (D), (E), (F) and (H), there shall be deducted from the gross operating revenues or gross income the following items:

- A. The amount of credit losses and uncollectibles actually sustained by the taxpayer; and
- B. Amounts derived from transaction in interstate or foreign commerce or from any business in which the city is prohibited from taxing under the Constitution of the United States or the Constitution of the State; and
- C. Amounts derived by the taxpayer from the city.

(Ord. 756 § 3, 2004; Ord. 613 § 3, 1998; Ord. 539 § 5, 1995; Ord. 251 § 5, 1981)

(Ord. No. 883, § 2, 12-23-2008)

5.08.055 Allocation of income—Cellular telephone service.

- A. **Service Address.** Payments by a customer for the telephone service from telephones without a fixed location shall be allocated among taxing jurisdictions to the location of the customer's principal service address during the period for which the tax applies.
- B. **Presumption.** There is a presumption that the service address the customer supplies to the taxpayer is current and accurate, unless the taxpayer has actual knowledge to the contrary.
- C. **Roaming Phones.** When the service is provided while a subscriber is roaming outside the subscriber's normal cellular network area, the gross income shall be assigned consistent with the taxpayer's accounting system to the location of

the originating cell site of the call, or to the location of the main cellular switching office that switched the call.

- D. Dispute Resolution. If there is a dispute between or among the city and another city or cities as to the service address of a customer who is receiving cellular telephone services and the dispute is not resolved by negotiation among the parties, then the dispute shall be resolved by the city and the other city or cities by submitting the issue for settlement to the Association of Washington Cities (AWC). Once taxes on the disputed revenues have been paid to one of the contesting cities, the cellular telephone service company shall have no further liability with respect to additional taxes, penalties or interest on the disputed revenues, so long as said company promptly changes its billing records for future revenues to comport with the settlement facilitated by AWC.
- E. The city administrator is authorized to represent the city in negotiations with other cities for the proper allocation of taxes due under subsection A of this section.

(Ord. 539 § 6, 1995)

5.08.060 Records to be kept.

Each taxpayer shall keep records reflecting the amount of his gross operating revenues, and such records shall be open at all reasonable times to the inspection of the city clerk-treasurer, or his duly authorized subordinates, for verification of the tax returns or for the fixing of the tax of a taxpayer who fails to make such returns.

(Ord. 251 § 6, 1981)

5.08.070 Failure to pay tax.

If any person, firm or corporation subject to this chapter fails to pay any tax required by this chapter on the date due, then there shall be added to the tax a penalty of five percent of the amount of the tax due if paid within thirty days from the date due, ten percent of the amount of the tax due if paid between thirty and sixty days from the date due, and twenty percent of the amount of the tax due if paid after sixty days from the date due, together with one and one half percent interest per month times the amount of the tax due. Any tax due together with penalties and interest remaining unpaid to the city shall constitute a debt to the city

and may be collected by court proceedings, which remedy shall be in addition to all other remedies.

(Ord. 415 § 1, 1989; Ord. 251 § 7, 1981)

5.08.080 Payments made in error—Credits—Refunds.

Any money paid to the city through error or otherwise not in payment of the tax imposed by this chapter or in excess of such tax shall, upon the request of the taxpayer, be credited against any tax due or to become due from such taxpayer hereunder or, upon the taxpayer's ceasing to do business in the city, be refunded to the taxpayer.

(Ord. 251 § 8, 1981)

5.08.090 Notice of annexation.

Whenever the boundaries of the city are extended by annexation, all persons, firms and corporations subject to this chapter will be provided copies of all annexation ordinances by the city.

(Ord. 251 § 9, 1981)

5.08.100 Unconstitutionality.

The invalidity or unconstitutionality of any provision or section of this chapter shall not render any other provision or section of this chapter invalid or unconstitutional.

(Ord. 251 § 10, 1981)

5.08.110 Administration.

The city council may, by resolution, adopt, publish and enforce, from time to time, such rules and regulations for the proper administration of this chapter as shall be necessary, and it shall be a violation of this chapter to violate or to fail to comply with any such rule or regulation lawfully promulgated hereunder.

(Ord. 251 § 11, 1981)

5.08.120 Violation—Penalties.

- A. Any person, firm or corporation violating or failing to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine in any sum not exceeding one thousand dollars or by imprisonment in jail for a period not exceeding ninety days, or both such fine and imprisonment.
- B. Civil Penalties. Any person, firm, or corporation who fails to comply with the provisions of this chapter is, in addition to any criminal penalties, subject to a maximum civil penalty of two hundred fifty dollars for each day or portion of the day that the violation continues.
- C. Other Legal Remedies. Nothing in this chapter limits the right of the city to pursue other lawful, criminal, civil or equitable remedies to abate, discontinue, correct or discourage unlawful acts under or in violation of this chapter.

(Ord. 849 § 6, 2007)