

**TOWN OF WAVERLY  
SPOKANE COUNTY, WASHINGTON  
ORDINANCE NO. 261**

**AN ORDINANCE OF THE TOWN OF WAVERLY, SPOKANE COUNTY,  
WASHINGTON IMPOSING A UTILITY TAX TO PROVIDE REVENUE  
FOR THE STREET FUND; AND ESTABLISHING AN EFFECTIVE  
DATE.**

**WHEREAS** the basic Town service levels will be greatly reduced without a new source of revenue; and

**WHEREAS** the Town Council finds it necessary to enhance revenues for the purpose of providing additional funds into the Street Fund for important and necessary public projects; and

**WHEREAS** the State of Washington, pursuant to RCW 35.21.870, has authorized towns to raise revenue for the privilege of conducting certain utility businesses in the Town and use the revenues to maintain the services, duties, and obligations of the Town;

**WHEREAS** the Town Council has determined that the public interest is best served by the implementation of a **6% utility tax** on all electrical bills; and

**WHEREAS** the Town Council will annually review the budget to determine if the additional funds generated by the utility tax are still required for the specified purpose or the need to change the rate implemented.

**NOW, THEREFORE**, the Town Council of the Town of Waverly, Washington do ordain as follows:

**Section 1: Utility tax.** The tax provided for in this Ordinance shall be known as the “utility tax” and is levied upon all persons conducting electrical energy business within the Town of Waverly on or after July 10, 2023.

**Section 2: Use and Accountability of Tax Proceeds.** All revenues collected under this Ordinance shall be deposited in the Street Fund and shall be used for the funding of street and roadway improvement projects, and replacement/repair of street equipment as the Town Council shall direct through its annual budget process.

**Section 3: Definitions.** In construing the provisions of this ordinance, except when otherwise declared or clearly apparent from the context, the following definitions shall be applied:

A. “Business” means and includes all activities engaged in with the object of gain, benefit, or advantage to the taxpayer or to another person or class, directly or indirectly.

B. “Electrical Energy Business” means the business of operating a plant or system for the generation, production, distribution or furnishing of electrical energy for hire or sale and/or for the wheeling of electricity.

C. “Gross income” means the value proceeding or accruing by reason of the transaction of the business engaged in and without deduction on account of the cost of the property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes or any other expense whatsoever paid or accrued and without any deduction on account of losses, except as otherwise provided for in this

ordinance. Gross income does not include charges which are passed on to subscribers or customers by a taxpayer pursuant to tariffs required by regulatory order to compensate for the cost to the taxpayer of the tax imposed by this ordinance.

D. "Person or Persons" means persons of either sex, firms, co-partnerships, corporations, limited liability companies, and other associations, whether acting by themselves or through servants, agents, or employees.

E. "Quarterly period" means a three-month period beginning the first day of the following months: January, April, July, and October.

F. "Taxpayer" means and includes any person, firm, or corporation liable for the utility tax imposed by this ordinance.

G. "Tax year" or "taxable year" means either the calendar year commencing January 1 and ending December 31 or the taxpayer's fiscal year when permission is obtained from the Town of Waverly to use a fiscal year in lieu of a calendar year.

H. "Town" means the Town of Waverly, Washington.

I. "Value proceeding or accruing" means the consideration whether money, credits, rights, or other property expressed in terms of money, actually received or accrued. The terms shall be applied, in each case, on a cash-receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer.

**Section 4: Imposed-Amount.** There is levied and there shall be collected from every person, firm or corporation engaged in the business activities hereinafter set forth, for the act or privilege of engaging in such activities within the Town, a tax to be known as a "utility tax" in the amounts to be determined by the application of rates herein stated against gross income, as follows:

A. Upon every person, firm or corporation engaged in or carrying on an electrical energy business of sale, delivery or distribution of electricity, a tax equal to **six percent (6%)** of the total gross income derived from the sales of electricity to users in the Town.

**Section 5: Deductions.** In computing the tax levied under this ordinance, there shall be deducted from the gross income any income derived from transactions in interstate or foreign commerce or from any business which the Town is prohibited from taxing under the Constitutions of the United States or the state of Washington.

A. Adjustments made to a billing or customer account in order to reverse a billing or charge that was not properly a debt of the customer.

B. Uncollectible debts written off the taxpayer's books during the tax year. If subsequently collected, the income shall be reported for the period in which it was collected.

**Section 6: Quarterly installments--Due date.** The tax imposed by this ordinance shall be due and payable in quarterly installments. Remittance shall be made on or before the thirtieth (30<sup>th</sup>) day of the month next succeeding the end of the quarterly period for which the tax accrued, that is on January 30<sup>th</sup>, April 30<sup>th</sup>, July 30<sup>th</sup>, and October 30<sup>th</sup> of each year. The remittance shall be

made to the Town of Waverly and accompanied by a return on a form to be provided and prescribed by the Town of Waverly. On the return the taxpayer shall be required to swear or affirm that the information therein given is full and true and that the taxpayer knows the same to be so.

**Section 7: Delinquency penalty--Collection.**

A. If payment of any fee or tax due under this ordinance is not received by the Town of Waverly on or before the day it becomes due, there shall be added a penalty and interest added as follows:

1. One to forty days delinquency, a penalty of ten percent (10%) of such delinquency;
2. Forty-one to seventy days delinquency, a penalty of fifteen percent (15%) of such delinquency; and
3. Seventy-one or more days delinquency, a penalty of twenty percent (20%) of such delinquency.

B. Any tax due under this ordinance which is unpaid, and all penalties thereon, shall constitute a debt to the Town and may be collected by court proceedings, which remedy shall be in addition to all other remedies.

C. Unpaid tax shall accrue interest, compounded annually, at the maximum amount allowed by law.

**Section 8: Overpayment.** Any money paid to the Town through error or otherwise not in payment of the tax imposed hereby or in excess of such tax shall, upon request of the taxpayer, be credited against any tax due or to become due from such taxpayer hereunder or, upon taxpayer's ceasing to do business in the Town, be refunded to the taxpayer.

**Section 9: Recordkeeping-Inspection.** It shall be the duty of every person, firm, or corporation subject to the provisions of this ordinance to keep and preserve for a period of five (5) years such books and records as will accurately reflect the amount of gross income from which can be determined the amounts of any fee or tax for which there may be liability under the provisions of this ordinance. The term "books and records" as used in this section, includes the taxpayer's copies of federal excise tax returns, State of Washington excise tax returns and copies of excise tax audits made by the United States or the State of Washington, and furnished to such person, firm or corporation if any. The taxpayer's books and records shall be opened for examination at all reasonable times by the Town of Fairfield or a duly authorized representative.

**Section 10: Administration-Rules.** The Town of Waverly is authorized to adopt, publish and enforce, from time to time, such rules and regulations for the proper administration of this ordinance as shall be necessary.

**Section 11: Annexation--Copies of ordinance provided.** Whenever the boundaries of the Town are extended by annexation, all persons, firms, and corporations subject to this ordinance will be provided copies of the annexation ordinance by the Town.

**Section 12: Violation--Penalty.** Any person, firm or corporation subject to this ordinance who fails or refuses to make such tax return or to pay such tax when due, or who makes any false statement or representation in or in connection with any such application for such tax return, or who otherwise violates or refuses or fails to comply with the provisions of this ordinance, or with any rule or regulation promulgated hereunder, is guilty of a misdemeanor.

**Section 13: Repeal - severability.** Any ordinance or parts of ordinances in conflict herewith are hereby repealed. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason declared or held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**Section 14: Effective Date.** This ordinance shall be published in the official newspaper of the Town and shall take effect and be in full force five (5) days after the date of publication.

**PASSED** by the Town Council on July 10, 2023.



Paul Curtis, Mayor

ATTEST:

  
Donnell Ellsworth, Town Clerk/Treasurer