

## ORDINANCE NO. 903

AN ORDINANCE IMPOSING A BUSINESS AND OCCUPATION TAX UPON CERTAIN BUSINESSES, OCCUPATIONS AND PRIVILEGES REQUIRING A LICENSE FOR THE SAME, PROVIDING FOR THE COLLECTION THEREOF, DEFINING OFFENSES AND PRESCRIBING PENALTIES, AND REPEALING ORDINANCE 818.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAPATO, WASHINGTON AS FOLLOWS:

SECTION 1: The provisions of this Ordinance shall be deemed to be an exercise of the power of the City of Wapato to license for revenue.

SECTION 2: After January 1, 1991, 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 3 or 4 of this Ordinance without first having obtained, and being the holder of a license so to do, to be known as a Business and Occupation License. Each such person, firm or corporation shall promptly apply to the City Clerk for such license upon such forms as the Clerk shall prescribe, giving such information as the Clerk shall deem reasonably necessary to enable said Clerk to administer and enforce this Ordinance; and, upon acceptance of such application by the Clerk, said Clerk shall thereupon issue such license to the applicant. Such Business and Occupation License shall be personal and non-transferable and shall be valid as long as the license shall continue in said business and shall comply with this Ordinance.

SECTION 3: From and after January 1, 1991, there is hereby levied upon, and shall be collected from, every person, firm or corporation, including the City of Wapato, engaged in carrying on the following business or services, provided the following are with or partly within the corporation of the City a tax for the privilege of doing so as hereinafter defined, to-wit:

- (a) Upon any telephone business, business providing and/or distributing electrical power, business providing and distributing natural gas, business engaged in the providing of cable television services, and the providing of water and sewer services within the limits of the City of Wapato there shall be levied a tax equal to six percent (6%) of the total gross operating revenue derived from operations within the city limits of the City of Wapato. Gross operating revenues for this purpose shall not include charges which are passed on to the subscribers, users or recipients of such services by the person, corporation or

entity providing such service to compensate for the cost of the tax imposed by this Ordinance, but shall include all fees for the connecting and disconnecting of services or similar fees.

- (b) Any business upon which a tax is imposed hereby shall be credited with any franchise fee or other charge for carrying on business within the City of Wapato which has previously been imposed upon such business.
- (c) If the tax imposed hereby shall be charged to the customer or user of the services provided by the business taxed, such tax shall not be imposed on any amount charged such customer which exceeds the sum of \$3,000.00 in any thirty (30) day period.

"Telephone business" shall mean the business of providing access to a local telephone network, local telephone switching service, toll service, or telephone services or providing telephonic, video, data or similar communication or transmission for hire, via a local telephone network, toll line or channel, or similar communication or transmission system. Nor shall telephone business include "Competitive telephone service".

"Competitive telephone service" means the providing by any person of telephone equipment, apparatus, or service, other than toll service, which is of a type which can be provided by persons that are not subject to regulation as telephone companies under Title 80 RCW and for which a separate charge is made.

SECTION 4: The tax imposed by this Ordinance shall be due and payable monthly and remittance shall be made on or before the 30th day of the month next succeeding the end of the month in which the tax accrued.

On or before each due date, taxpayer shall file with the City Clerk a written return, upon such form and setting forth such information as the Clerk shall reasonably require, together with the payment of the tax.

SECTION 5: In computing said tax, there shall be deducted from said gross operating revenues the following items:

- (a) The amount of credit losses and uncollectible actually sustained by the taxpayer.
- (b) Amounts derived from any business which the City is prohibited from taxing under the Constituions of the United State or laws of the State of Washington.

(c) Amounts derived by the taxpayer from the City of Wapato.

SECTION 6: Each taxpayer shall keep records reflecting the amount of his said gross operating revenue, and such records shall be open at all reasonable times to the inspection of the City Clerk, or designated representative, for verification of said tax returns or for the fixing of the tax of a taxpayer who shall fail to make such returns.

SECTION 7: If any person, firm, or corporation subject to this Ordinance shall fail to pay any tax required by this Ordinance within (30) days after due date thereof, there shall be added to such tax a penalty of five (5%) of the amount of the tax due, and any tax due under this ordinance and unpaid and all penalties thereon, shall constitute a debt to the City and may be collected by Court proceedings, which remedy shall be in addition to all other remedies.

SECTION 8: Any money paid to the City in 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 come due from such taxpayer hereunder or upon the taxpayer's ceasing to do business in the City be refunded to the taxpayer.

SECTION 9: Whenever the boundaries of said City are extended by annexation, all persons, firms or corporations subject to this Ordinance will be provided copies of all annexation ordinances by the City.

SECTION 10: The invalidity or unconstitutionality of any provision or section of this Ordinance shall not render any other provision or section of this Ordinance invalid or unconstitutional.

SECTION 11: The City is hereby 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, and it shall be a violation of the Ordinance to violate or fail to comply with any such rule or regulation lawfully promulgated hereunder.

SECTION 12: Ordinance 818 is hereby repealed in its entirety effective December 31, 1990.

SECTION 13: This Ordinance shall take effect on January 1, 1991 following its approval and publication as provided by law.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF WAPATO,  
WASHINGTON, THIS 15TH DAY OF OCTOBER, 1990.

ORDINANCE NO. 977

**ORDINANCE INCREASING THE RATE OF TAX ON THE PRIVILEGE OF CONDUCTING AN ELECTRICAL ENERGY, NATURAL GAS, OR TELEPHONE BUSINESS BY THREE PERCENT FOR A TERM OF THREE YEARS, AND ALLOCATING SAID INCREASE TO THE FIRE DEPARTMENT**

WHEREAS by resolution duly passed by the mayor and city council on the 6th day of September, 1994, a special election was held on November 8, 1994 in the City of Wapato, and

WHEREAS the Yakima County Auditor and Ex-Officio Supervisor of Elections certified that by simple majority of the ballots cast at the aforesaid election the proposition was passed approving the increase by the City of Wapato in the rate of tax on the privilege of conducting an electrical energy, natural gas, or telephone business by three percent for a term of three years, with the increase to be allocated to the Fire Department,

NOW THEREFORE the mayor and council of the City of Wapato do ordain as follows:

1. A new provision is added to Section 3.24.030 to read as follows:

D. In addition to the tax imposed by Section 3.24.030(A), for the period from January 1, 1995 through December 31, 1997 there is levied upon, and shall be collected from every person, firm or corporation conducting an electrical energy, natural gas, or telephone business, a tax equal to three percent of the total gross operating revenue derived from said operations within the city limits. Gross operating revenues for this purpose do not include charges to customers of such services to compensate for the cost of the tax imposed by this paragraph. The revenue generated by this tax shall be allocated to the fire department in fund 001-316.40.00.

2. This ordinance shall be effective five days after publication of a summary hereof.

PASSED AND APPROVED by the mayor this 5 day of December, 1994.

Richard C. Calahan  
RICHARD C. CALAHAN, Mayor

ATTEST:

Pauline Groth  
PAULINE GROTH, City Clerk

APPROVED AS TO FORM:

Wm C. Murphy  
WILLIAM C. MURPHY, City Attorney

**ORDINANCE ESTABLISHING BUSINESS  
AND OCCUPATION TAX ON CELLULAR  
TELEPHONE SERVICE BY AMENDING  
SECTION 3.24.040 OF THE WAPATO  
MUNICIPAL CODE**

WHEREAS there is a business and occupation tax for the privilege of doing certain businesses within the City of Wapato, including telephone business, electrical power business, natural gas business, cable television business, and water and sewer services, and

WHEREAS the city council deems it appropriate to extend said tax levy to the cellular telephone business,

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF WAPATO, WASHINGTON ORDAINS AS FOLLOWS:


1. Section 3.24.040 is amended to read as follows:

3.24.040 Definitions: A. "Telephone business" means the business of providing access to a local telephone network, local telephone switching service, toll service, cellular telephone service, coin operated telephone service, or providing telephonic, video, data or similar communication or transmission system for hire, via a local telephone network, toll line or channel, or similar communication or transmission system. "Telephone business" does not include the providing of competitive telephone service or cable television service.

B. "Competitive telephone service" means the providing by and person of telephone equipment, apparatus, or service other than toll service, which is a type which can be provided by persons that are not subject to regulations as telephone companies under Title 80 RCW and for which a separate charge is made.

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2 C. "Cellular telephone service" is a two-way voice and  
3 data telephone/telecommunications system based in whole  
4 or substantially in part on wireless radio communications  
5 and which is not subject to regulation by the Washington  
6 Utilities and Transportation Commission. This includes  
7 cellular mobile service. The definition of "cellular  
8 mobile service" includes other wireless radio  
9 communications services such as specialized mobile radio,  
10 personal communications services, and any other evolving  
11 wireless radio communications technology which  
12 accomplishes a purpose similar to cellular mobile  
13 service.

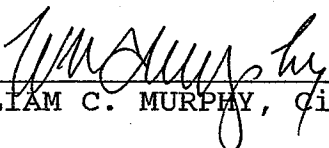
14 PASSED this 6 day of May, 1996.

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19 EDNA MAUCH, Mayor

20 ATTEST:

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22 \_\_\_\_\_  
23 LINDA B. MEAD, City Clerk

24 APPROVED AS TO FORM:

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28 WILLIAM C. MURPHY, City Attorney  
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