

Shannon & Associates, LLP

CERTIFIED PUBLIC ACCOUNTANTS & MANAGEMENT CONSULTANTS

DO NOT DOCKET

December 28, 2004

Washington Utilities & Transportation Commission

Via e-mail: records@wutc.wa.gov

Re: Yakima Waste Systems, Inc.

Docket No. TG-042138

The attached revised Page 7 of Tariff No. 9 for Yakima Waste Systems, Inc., is resubmitted at staff request.

The attached ordinances are also being submitted at staff request.

Yours very truly,

SHANNON & ASSOCIATES, LLP



William R. Chatham, CPA

Title 7 PUBLIC SERVICES AND UTILITIES

Chapter 7.64 WATER, WASTEWATER AND REFUSE REVENUE TAX*

7.64.010 Purpose and findings.

7.64.020 Water and wastewater tax.

7.64.030 Refuse tax.

7.64.040 When payable.

7.64.050 Source of taxes.



Title 7 PUBLIC SERVICES AND UTILITIESChapter 7.64 WATER, WASTEWATER AND REFUSE REVENUE TAX*

7.64.010 Purpose and findings.

A. Purpose. It is the purpose of this chapter to impose a fair, just, and reasonable tax upon the provision of wastewater, domestic water, and refuse collection and disposal services, as measured by revenues billed to customers of the utilities that provide those services.

B. Findings. It is equitable that all rates, fees, and charges for connection to, use of, or other services provided by the city's water and wastewater systems and refuse collection and disposal service be subject to city taxes. (Ord. 97-61 § 1 (part), 1997).

Title 7 PUBLIC SERVICES AND UTILITIESChapter 7.64 WATER, WASTEWATER AND REFUSE REVENUE TAX*

7.64.030 Refuse tax.

For the provision of refuse services, there is levied a nine percent tax against the total gross revenue of the refuse fund derived from refuse collection and disposal service charges. (Ord. 2001-74 § 1, 2001; Ord. 87-81 § 1 (part), 1997).

Title 7 PUBLIC SERVICES AND UTILITIES

Chapter 7.64 WATER, WASTEWATER AND REFUSE REVENUE TAX*

7.64.040 When payable.

The taxes provided by this chapter shall be due and payable on or before the fifteenth day of each month on the basis of gross revenues billed for the last preceding calendar month. (Ord. 97-81 § 1 (part), 1997).

Title 7 PUBLIC SERVICES AND UTILITIES**Chapter 7.64 WATER, WASTEWATER AND REFUSE REVENUE TAX***

7.64.050 Source of taxes.

The taxes provided by this chapter shall be paid by a transfer of funds from the wastewater operating fund, the water operating fund, and the refuse fund, respectively, to the current expense fund of the city of Yakima, and the city finance director is authorized and directed to make such transfers each month as are necessary to accomplish payment and collection of the taxes levied by this chapter. (Ord. 97-81 § 1 (part), 1997).

Attn: Bill Covert - SR

Yakima Waste Systems Inc.

From: "Fortier, Nancy" <nfortier@ci.yakima.wa.us>
To: <scottrg89@msn.com>
Sent: Friday, December 17, 2004 10:11 AM
Subject: Collection of garbage in business class

Scott,

Here is the ordinance. I highlighted in red the section relating to the 10% tax. It can be found online under www.ci.yakima.wa.us/citycode

Nancy

Title 4 HEALTH AND SANITATION* <./index.html>

Chapter 4.16 GARBAGE STORAGE, COLLECTION AND DISPOSAL <./index.html>

4.16.180 Collection of garbage in business class--License and tax--Regulations.

A. License Required. No person, association or corporation shall engage in the business of collecting and hauling garbage, refuse or debris within the city or in gathering the same within the city for disposal at some point or area outside of the city without obtaining a license therefor and complying with the regulations of this section.

B. Application--Fee--Bond. Written application for the licenses or renewals thereof on forms provided by the city clerk shall be accompanied by payment of a yearly basic license fee of ten dollars, payable on or before January 1st of each year. The term of the license shall commence on January 1st of each year. In the event of an application for a license for a period of less than one year, the basic fee shall nevertheless be paid in full. The basic fee of ten dollars shall be credited against the license tax provided for by subsection C of this section. Upon notification to the city clerk, licenses may be transferred to purchasers or assigns of the licensee's equipment or business. No basic fee shall be refunded.

At the time of making application, the applicant shall furnish a bond in the amount of five thousand dollars, issued by a surety company authorized to do business in the state of Washington, the form of which bond shall be subject to approval by the city attorney, which bond shall be conditioned on the faithful compliance by the applicant with the provisions of this chapter, and further conditioned that the collection, transportation and disposal of garbage, refuse and debris shall be carried on by applicant according to the laws of the state of Washington, the ordinances of the city of Yakima and the rules and regulations of the Yakima County Health District.

C. License Tax Imposed--Amount.

(1) Commencing February 1, 1991, and effective until December 31, 1992, there is levied upon every person, association or corporation holding a license for the collection and hauling of garbage, refuse or debris within the city or in gathering the same within the city for disposal at some point or area outside of the city, a tax for the privilege of doing so, such tax to be equal to eight percent of the cash receipts from all customers within the city served by the license holder. Such tax shall be due and payable in quarterly installments, for quarters ending with the last days of March, June, September and December of each year, and remittance therefor shall be made on or before thirty days after the end of the quarterly period for

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which it is due.

(2) Commencing January 1, 1993, and effective until December 31, 1993, there is levied upon every person, association or corporation holding a license for the collection and hauling of garbage, refuse or debris within the city or in gathering the same within the city for disposal at some point or area outside of the city, a tax for the privilege of doing so, such tax to be equal to ten percent of the cash receipts from all customers within the city served by the license holder. Such tax shall be due and payable in quarterly installments, for quarters ending with the last days of March, June, September and December of each year, and remittance therefor shall be made on or before thirty days after the end of the quarterly period for which it is due.

(3) Commencing January 1, 1994 and effective thereafter, there is levied upon every person, association or corporation holding a license for the collection and hauling of garbage, refuse or debris within the city or in gathering the same within the city for disposal at some point or area outside of the city, a tax for the privilege of doing so, such tax to be equal to ten percent of the cash receipts from all customers within the city served by the license holder. Such tax shall be due and payable in quarterly installments, for quarters ending with the last days of March, June, September and December of each year, and remittance therefor shall be made on or before thirty days after the end of the quarterly period for which it is due.

D. Manner of Payment—Audit of Records of Licensee. Payment of the tax imposed by subsection C of this section shall be made to the office of the treasurer of the city of Yakima accompanied by a report of the licensee of the amount of gross cash receipts from customers within the city for the period for which the tax is paid, which report shall contain such information as may be deemed necessary or desirable by the treasurer to administer the collection of such tax. License holders shall afford access at all reasonable times to their books and records for inspection and audit by the city finance officer or other auditor appointed by the city manager or engaged by the city for that purpose, for the purpose of verifying the accuracy of reports and the amounts of tax payments made to the city treasurer pursuant to this section.

E. Rules and Regulations. There are established the following rules and regulations for the collection and hauling of garbage, refuse and debris in the business classification, as defined by Section 4.16.140:

1. The beds of all trucks used by licensee within the city shall be of metal construction and completely watertight. Truck beds must be kept clean and free of any accumulation of garbage or other refuse.
2. All licensed collectors, after loading trucks, must leave all alleys and streets in a clean and sanitary condition. Such collectors shall not permit any material to be dropped or spilled from trucks in or upon any of the public ways of the city.
3. The charge for collection in the business class shall be paid by the owner or person in charge of the place from which such garbage or refuse shall be removed. Such charge shall be agreed upon between such person and the collector. Each licensed collector shall furnish to the city of Yakima semiannually a list of all accounts and frequency of collection thereof.
4. The owner or person in control or charge of each building in the business

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class shall maintain for refuse storage and disposal metal containers of good and watertight construction with no dents of not more than thirty-gallon capacity with a handle on each side thereof and tightfitting lids, the gross weight of which container when full shall not exceed seventy-five pounds. In lieu of such containers, the premises may be served with dropoff bins; provided, bins with a capacity of 1.5 cubic yards (40.5 cubic feet) or greater shall not be stored within five feet of combustible walls, openings or combustible roofline eaves.

Refuse containers shall be placed on the premises in such a manner and at such a location so as to be readily accessible for collection and shall not be kept on the street, alley, sidewalk or other public place; provided, that garbage cans or other approved containers may be placed on a platform or rack in the alley in back of the premises in a location approved by the code administration manager with the lids for the cans or containers chained and locked or otherwise secured to the platform or rack. Lids shall not be removed except while refuse is being placed in or removed from the receptacles.

F. Revocation of License. A license issued pursuant to this section is subject to revocation by the city manager on a hearing conducted by him, after notice of such hearing given to the licensee no less than five days prior to the date of such hearing, on the finding by the city manager that a licensee has failed to comply with any provision of this section or with any city ordinance applicable to the conduct of the business of the licensee. In the event of the revocation of a license by the city manager as provided herein, the licensee shall have the right to a hearing on the matter by the city council on the filing with the city clerk of a written notice of appeal within ten days after the city manager's revocation of the license. The decision of the city council on such appeal shall be final and conclusive.

G. Purpose of Section. This section is enacted to provide regulation of the business of garbage collection within the city and to provide revenue for the operation of necessary city functions. (Ord. 93-113 § 1, 1993; Ord. 93-104 § 1, 1993; Ord. 3488 § 1, 1992; Ord. 3321 § 1, 1990; Ord. 3159 § 1, 1989; Ord. 3005 § 7, 1987; Ord. 2659 § 1, 1982; Ord. 2573 § 1, 1981; Ord. 2447 § 1, 1980; Ord. 1881 § 1, 1975; Ord. 1552 § 2, 1973; Ord. 1360 § 2, 1971; Ord. 1206 § 1, 1969; Ord. 1195 § 1, 1969; Ord. 953, 1967; Ord. 441, 1963; Ord. 277, 1961; Ord. 259, 1961; Ord. B-1523 § 14, 1954).

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5.04.010--5.04.020

Title 5BUSINESS TAXES, LICENSES AND REGULATIONSChapters:

*5.04	Utility License Fee and Tax
<u>5.08</u>	<u>Special Events</u>
<u>5.12</u>	<u>Junk Dealers</u>
<u>5.16</u>	<u>Pinball Machines</u>
<u>5.20</u>	<u>Poolrooms and Billiard Halls</u>
<u>5.24</u>	<u>Amusement Devices</u>
<u>5.28</u>	<u>Yard Sales</u>
<u>5.32</u>	<u>Flea Markets</u>
<u>5.36</u>	<u>Peddlers</u>

Chapter 5.04UTILITY LICENSE FEE AND TAXSections:

5.04.010	Generally.
5.04.020	Definitions.
5.04.030	Rate.
5.04.040	Payment procedure.
5.04.050	Exclusions.
5.04.060	License fee or tax--Payment required.
5.04.070	License fee or tax--Payment and records.
5.04.080	Responsibility upon sale or transfer.
5.04.090	Application and returns--Confidentiality.
5.04.100	Procedure for refunds or balances due.
5.04.110	Failure to make return.
5.04.120	Unlawful acts.
5.04.130	Additional to other taxes levied.
5.04.140	Unpaid license fee or taxes constitute debt to city--Collection.
5.04.150	Appeals.
5.04.155	Referendum petition.
5.04.160	Violation.

5.04.010 Generally. The provisions of this chapter shall be deemed an exercise of the power of the town to license for revenue. (Ord. 353 §1, 1972).

5.04.020 Definitions. In construing this chapter, save when otherwise plainly declared or clearly apparent from the context, the following definitions shall be applied:

5.04.020

A. "Gross income" means the value proceeding or accruing from the sale of tangible property or service, and receipts, (including all sums earned or charged whether received or not) by reason of the investment or capital in the business engaged in, including rentals, royalties, fees

or other emoluments, however designated derived from business activities conducted within the corporate limits of the town (excluding receipts or proceeds from the use or sale of real property or any interest therein and proceeds from the sale of notes, bonds, mortgages or other evidence of indebtedness or stocks and the like) and without any deduction on account of the cost of the property sold, and the cost of materials used, labor costs, interest or any expenses whatsoever; provided, however, that only the gross income attributed to those taxable services or commodities as are specifically set forth in subsections A and B of Section 5.04.030 shall be subject to the tax provided in this chapter and any taxpayer deriving income from the sale of any other tangible property or services and receipts not so specifically set forth in Section 5.04.030 may exclude said income from gross income as defined in this subsection.

B. "Person" or "persons" means persons of either sex, firms, copartnerships, corporations, public utility districts, public or private utilities, water companies or districts and other associations, whether acting by themselves or by servants, agents or employees.

C. "Taxpayers" means any person liable to the license fee or tax imposed by this chapter.

D. "Tax year" or "taxable year" means the year commencing January 1st and ending on the last day of December of the same year, or, in lieu thereof, the taxpayer's fiscal year when permission is obtained from the town clerk to use the same as the tax period. (Ord. 353 §2, 1972).

5.04.030 Rate. On or after January 1, 1984, there is levied upon and there shall be collected from every person, firm or corporation engaged in carrying on the following business for hire, or for sale of a commodity or a service within or properly within the corporate limits of the town, the tax for the privilege of so doing business hereinafter defined. The occupation tax sometimes referred to in this chapter as tax against gross income of businesses and defined in Section 5.04.020 of this chapter for the three calendar months preceding the beginning of each quarterly period, the quarterly periods are as follows:

First quarter--January, February, March
Second quarter--April, May, June
Third quarter--July, August, September
Fourth quarter--October, November, December.

A. Upon any telephone business there shall be levied a tax equal to six percent of the total gross operating revenues, including revenues from intrastate toll, derived

5.04.030

from the operation of such businesses with the town. Gross operating revenues for this purpose shall not include charges which are passed on to the subscribers by a telephone company pursuant to tariffs required by regulatory order to compensate for the cost to the company of the tax imposed by this chapter.

"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 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 services.

"Competitive telephone service" means the providing by any 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 regulation as telephone companies under RCW Title 80 and for which a separate charge is made.

"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. This includes cellular mobile service. The definition of "cellular mobile service" includes other wireless radio communications services such as specialized mobile radio, personal communications services, and any other evolving wireless radio communications technology which accomplishes a purpose similar to cellular mobile service.

B. There is levied a tax on the sale, delivery or distribution of electricity and electrical energy and for the privilege of carrying on the business, such tax to be equal to six percent of the total gross operating revenue derived from sales of such electricity to ultimate users within the town; provided, however, that there shall not be any tax levied for the installation charges of electrical units.

C. There is levied a tax on the sale of natural, manufactured or mixed gas for residential, commercial or industrial consumption and for the privilege of carrying on the business, such tax to be equal to six percent of gross operating revenues from such sales of natural, manufactured or mixed gas within the limits of the town.

D. There shall be levied a tax on the sale, delivery or distribution of cable television picture or signal and for the privilege of carrying on the business, such tax to be equal to six percent of the total gross operating revenues derived from the sale of such cable signal to ultimate users within the town; provided that there shall not be any

5.04.040

tax levied for the installation charges for cable service. (Ord. 820 \$1, 1996; Ord. 627 \$1, 1986; Ord. 581 \$1, 1983; Ord. 557 \$1, 1982; Ord. 486 \$1, 1979; Ord. 353 \$3, 1972).

5.04.040 Payment procedure. A. The license fee or tax imposed by this chapter except the annual license fee required to accompany the application for the license, shall be due and payable in quarterly installments and remittance shall be made on or before the thirtieth day of the month next succeeding the end of the quarterly period in which the tax accrued. The remittance shall be made as provided in this chapter and shall be accompanied by a return on a form to be provided and prescribed by the town clerk. To 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.

B. In lieu of the quarterly payment of the tax provided in this chapter, the taxpayer may, when permission is obtained from the town clerk, pay said tax on a monthly basis.

C. Whenever a taxpayer commences to engage in business during any quarterly period, his first return and license fee or tax will be based upon and cover the portion of the quarterly period during which he engaged in business.

D. First payments and returns under this chapter shall be for the gross income derived during the first quarter, 1973, as defined in Section 5.04.030 and the said tax shall be due and payable as provided in this chapter. Like payments and returns shall be made on a quarterly basis thereafter, said payments to be due and payable as provided in this section.

E. There is levied a tax upon every person, corporation or business engaged in carrying on the business of operating or conducting a garbage or solid waste refuse collection system for domestic or industrial use; a domestic water system and/or a domestic or industrial sewage system, a fee or tax equal to thirty-six percent of the total gross income derived from such business in the town during the period for which the license fee or tax is due. (Ord. 999 \$1, 2003; Ord. 961 \$1, 2002; Ord. 353 \$4, 1972).

5.04.050--5.04.060

5.04.050 Exclusions. A. There shall be excepted and deducted from the total gross income upon which the license fee or tax is computed so much thereof as is derived from transactions in interstate or foreign commerce or from business done for the government of the United States, its officers or agents, and any amount paid by the taxpayer to the United States, state, as excise taxes levied or imposed upon the sale or distribution of property or service.

B. There shall be excepted and deducted from the total gross income upon which the license fee or tax is computed all bad debts for services incurred, rendered or charged for during the tax year. Debts shall be deemed bad and uncollectable when the same have been written off the books of the taxpayer. In the event debts are subsequently collected, said income shall be reported in the return for the quarter in which said debts are collected and at the rate prevailing in the tax year when collected.

C. There shall be excepted and deducted from the total gross income upon which the license fee or tax is computed all cash discounts allowed and actually granted to customers of the taxpayer during the tax year.

D. Nothing in this chapter shall be construed as requiring a license or the payment of a license fee or tax, or the doing of any act, which would constitute an unlawful burden or interference in violation of the Constitution or laws of the United States or which would not be consistent with the Constitution or laws of the state. (Ord. 353 §5, 1972).

5.04.060 License fee or tax--Payment required. A. On and after the first day of January, 1973, no person subject to the payment of the tax provided in this chapter shall engage in any business or activity in the town for which a tax is imposed by this chapter without first having obtained and being the holder of a valid and subsisting license to do so, to be known as an occupation license issued under the provisions of this chapter as provided in this chapter, and without paying the license fee or tax imposed by this chapter. The fee or tax for the occupation license shall be the license fee or tax imposed by this chapter and in addition the sum of ten dollars as a license fee which shall accompany the application for license. Such license shall expire at the end of the calendar year in which it is issued and a new license shall be required for each calendar year. Application for license shall be made to and issued by the town clerk on forms provided by her or him.

B. Said license shall be personal and nontransferable. Each license shall be numbered, shall show the name place and character of business of the taxpayer and such other

5.04.070--5.04.090

information as the town clerk deems necessary and shall at all times be conspicuously posted in the place of business for which it is issued.

C. No person to whom a license has been issued pursuant to this chapter shall suffer or allow any other person for whom a separate license is required to operate under or display his license; nor shall such other person operate under or display such license. (Ord. 353 §6, 1972).

5.04.070 License fee or tax--Payment and records.

A. The license fee or tax payable thereunder shall at the time of the return being required to be filed under this chapter, be paid to the town treasurer by bank draft, certified check, cashier's check, personal check or money order or in cash. If payment is made by draft or check, the tax or fee shall not be deemed paid until the check or draft is honored in the usual course of business; nor shall the acceptance of any sum by the treasurer be an acquittance or discharge of the tax or fee due unless the amount of payment is in full and the actual amount due.

B. It shall be the duty of every person liable for the payment of any fee or tax imposed by this chapter to keep and preserve for the period of five years such books and records as will accurately reflect the amount of his gross income as defined in this chapter and from which can be determined the amount of any fee or tax for which he may be liable under the provisions of this chapter and all books as provided in this chapter shall be open for examination at all reasonable times by the town clerk or his or her duly authorized agent. (Ord. 353 §7, 1972).

5.04.080 Responsibility upon sale or transfer. Upon the sale or transfer during a quarterly period of a business on account of which a license fee or tax is required by this chapter, the purchaser or transferee shall, if the fee or tax has not been paid in full for said quarterly period, be responsible for the payment of the fee or tax for that portion of the quarterly period during which he carries on such business. (Ord. 353 §8, 1972).

5.04.090 Application and returns--Confidentiality. The application and returns made to the town clerk pursuant to this chapter shall not be made public, nor shall they be subject to the inspection of any person except the mayor, town attorney, town clerk, town treasurer or his or her duly authorized agent and members of the town council; and it is unlawful for any person to make public or to inform any other person as to the contents or any information contained in or to permit inspection of any application or return except as authorized in this section. (Ord. 353 §9, 1972).

5.04.100--5.04.150

5.04.100 Procedure for refunds or balances due. A. If the town clerk upon investigation or upon checking returns finds that the fee or tax paid on any of them is more than the amount required of the taxpayer, he shall refund the amount overpaid by a warrant upon the current expense fund.

B. If the clerk finds that the fee or tax is less than required, he or she shall mail a statement to the taxpayer showing the balance due, who shall within three days pay the amount shown thereon. (Ord. 353 §1, 1972).

5.04.110 Failure to make return. If any taxpayer fails, neglects or refuses to make his or her return as and when required in this chapter, the clerk is authorized to determine the amount of tax payable, and by mail notify such taxpayer of the amount so determined. The amount so fixed shall thereupon become the tax and be immediately due and payable. (Ord. 353 §11, 1972).

5.04.120 Unlawful acts. It is unlawful for any person liable to tax under this chapter to fail or refuse to secure the license, to make the returns as and when required, or to pay the fee or tax when due, or for any person to make any false or fraudulent application or return or any false statement or representation in, or in connection with, any such application or return, or to aid or abet another in an attempt to evade payment of the fee of tax, or any part thereof, or for any person to fail to appear and/or testify in response to subpoena issued pursuant hereto, and to testify falsely upon any investigation of the correctness of a return, or upon the hearing of any appeal, or in any manner to hinder or delay the town or any of its officers in carrying out the provisions of this chapter. (Ord. 353 §12, 1972).

5.04.130 Additional to other taxes levied. The license fee and tax levied in this chapter shall be additional to any license or tax imposed or levied under any law or any other ordinance of the town. (Ord. 501 §1, 1980; Ord. 353 §13, 1972).

5.04.140 Unpaid license fee or taxes constitute debt to city--Collection. Any license or tax due and unpaid under this chapter, and all penalties thereon, shall constitute a debt to the town and may be collected by court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies. (Ord. 353 §14, 1972)..

5.04.150 Appeals. A. Any taxpayer aggrieved by the amount of the fee or tax found by the clerk to be required under the provisions of this chapter, may appeal to the town

5.04.155

council from such finding by filing a written notice of appeal with the town clerk within five days from the time such taxpayer was given notice of such amount. The clerk shall, as soon as is practicable, fix a time and place for the hearing of such appeal which time shall be not more than ten days after the filing of the notice of appeal, and he or she shall cause a notice of the time and place thereof to be mailed to the appellant. At such hearing the taxpayer shall be entitled to be heard and to introduce evidence in his own behalf. The town council shall thereupon ascertain the correct amount of the fee or tax by resolution and the town clerk shall immediately notify the appellant thereof by mail, which amount, together with costs of the appeal, if appellant is unsuccessful therein, must be paid within three days after such notice is given.

B. The mayor may, by subpoena, require the attendance thereof of any person and may also require him to produce any pertinent books or records. Any person served with such subpoena shall appear at the time and place therein stated and produce the books and records required, if any, and shall testify truthfully under oath administered by the chairman in charge of the matter required of him pertinent to the appeal and it is unlawful for him to fail or refuse to do so. (Ord. 353 §17, 1972).

5.04.155 Referendum petition. A referendum petition may be filed within seven days of passage of an ordinance imposing or increasing a business and occupation tax with the town clerk. Within ten days, the town clerk shall confer with the petitioner concerning form and style of the petition, issue the petition an identification number, and secure an accurate, concise and positive ballot title from the designated local official. The petitioners shall have thirty days in which to secure the signatures of not less than fifteen percent of the registered voters of the town, as of the last municipal general election, upon petition forms which contain the ballot title and the full text of the measure to be referred. The town clerk shall verify the sufficiency of the signatures on the petition and, if sufficient, valid signatures are properly submitted, shall certify the referendum measure to the next election ballot within the town or at a special election ballot as provided pursuant to RCW 35.17.260(2).

This referendum procedure shall be exclusive in all instances and shall supersede the procedures under RCW Chapters 35.17 and all other statutory or charter provisions for initiative or referendum which might otherwise apply. (Ord. 627 §2, 1986).

5.04.160

5.04.160 Violation. Any taxpayer who engages in, or carries on, any business subject to a tax under this chapter without having his "occupation license" to do so shall be guilty of a violation of this chapter for each day during which the business is so engaged in, or carried on; and any taxpayer who fails or refuses to pay the license fee or tax, or any part thereof, on or before the due date, shall be deemed to be operating without having his or her license to do so. (Ord. 782 §1(part), 1995; Ord. 353 §15, 1972).

ORDINANCE 999

AN ORDINANCE AMENDING GMC 5.04.030(E) AND INCREASING
THE UTILITY TAX ON WATER, GARBAGE AND SEWER ASSESSMENTS

WHEREAS, the Granger Municipal Code (GMC) presently provides for a utility tax of 6% on the water, sewer and garbage accounts, and due to financial constraints imposed by the initiative cutbacks to state support to cities and towns, the Town finds it necessary to increase the said utility taxes in order to have sufficient money in their current police protection and other services provided under the General Fund.


THEREFORE, IT IS HERBY ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF GRANGER, WASHINGTON:

Section 1: GMC 5.04.030(E) is hereby amended as follows:

"There is levied a tax upon every person, corporation or business engaged in carrying on the business of operating or conducting a garbage or solid waste refuse collection system or domestic or industrial use; a domestic water system and/or a domestic or industrial sewage system, a fee or tax equal to 36% of the total gross income derived from such business in the Town during the period for which the license fee or tax is due.

Section 2: This Ordinance shall be in effective December 31, 2003.

PRESENT FOR FIRST READING THIS 11TH DAY OF DECEMBER, 2003 AND PASSED BY THE TOWN COUNCIL AND APPROVED BY THE MAYOR THIS ~~23RD~~ DAY OF DECEMBER, 2003.



David Leach, Mayor

Attest:



Alice Koerner, Clerk/Treasurer

Approved as to form:

R.P. Reid, Town Attorney

FILE COPY

ORDINANCE NO. 1531

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, AMENDING SECTIONS 5.04.040, 5.04.050, 5.04.060, AND 5.04.065 OF THE SUNNYSIDE MUNICIPAL CODE, RELATING TO TAX RATES FOR UTILITIES--CODIFYING A PREVIOUSLY UNCODIFIED ORDINANCE

WHEREAS, the current language of the codified version of Section 5.04.040 of the Sunnyside Municipal Code provides that the city's tax on electric power and natural gas shall be computed at the rate of eight percent of the gross income derived from the sale and furnishing of electric power and natural gas within the corporate limits of the city; and,

WHEREAS, the current language of the codified version of Section 5.04.050 of the Sunnyside Municipal Code provides that the city's tax on telephone businesses shall be computed at the rate of ten percent of the total gross operating revenues derived from operation of such businesses within the city; and,

WHEREAS, the current language of the codified version of Section 5.04.060 of the Sunnyside Municipal Code provides that the city's tax on water, sewer, and garbage services shall be computed at the rate of eight percent of the gross income derived from said business activities conducted within the corporate limits of the city; and,

WHEREAS, the current language of the codified version of Section 5.04.165 of the Sunnyside Municipal Code provides that the city's tax on the cable television business shall be computed at the rate of eight percent of the total gross income derived from said business within the corporate limits of the city; and,

1 WHEREAS, Section 35.21.865 of the Revised Code of Washington sets the
2 maximum rate of taxes imposed upon the privilege of conducting electrical
3 energy, natural gas, or telephone businesses as six percent, unless there is
4 a vote on a proposition to exceed that limit; and,

5 WHEREAS, the City Council adopted its Ordinance No. 1368 on June 21st,
6 1982, which ordinance set the rate of tax on all utilities, both public and
7 private, as six percent, however, although said ordinance has never been
8 repealed or superceded, it was not included in the codified version of the
9 city code, with the result being that Sections 5.04.040, 5.04.050, 5.04.060
10 and 5.04.065 of the Sunnyside Municipal Code each reflected some other rate
11 of tax on the respective utilities involved therein, other than the rate of
12 six percent as established by Ordinance No. 1368; and,

13 WHEREAS, consistent with the provisions of Ordinance No. 1368, the city
14 has been collecting tax on the various utilities at the rate of six percent,
15 since the adoption of said ordinance; and,

16 WHEREAS, in order to be consistent with the language of Ordinance No.
17 1368, and in order to be consistent with the actual tax collection activities
18 of the city since the effective date of Ordinance No. 1368, it would be
19 appropriate to amend the codified version of Sections 5.04.040, 5.04.050,
20 5.04.060 and 5.04.065 of the Sunnyside Municipal Code to reflect the rate of
21 utility tax specified in said ordinance.

22 NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON,
23 DO ORDAIN as follows:

- 24 1. That Section 5.04.040 of the Sunnyside Municipal Code be, and the
25

1 same hereby is, amended to read as follows:

2 5.04.040 Tax rate--Electric power and natural gas businesses. The tax
3 provided for in this chapter shall be computed at the rate of six percent of
4 the gross income derived from each of the following occupations or business
5 activities conducted within the corporate limits of the city:

6 A. All persons engaged in or carrying on the business of selling or
7 furnishing electric light and power for hire;

8 B. All persons engaged in or carrying on the business of selling or
9 furnishing natural gas for hire.

10 2. That Section 5.04.050 of the Sunnyside Municipal Code be, and the
11 same hereby is, amended to read as follows:

12 5.04.050 Tax rate--Telephone businesses. A. The tax provided for in
13 this chapter on telephone businesses shall be computed at the rate of six
14 percent of the total gross operating revenues, including revenues for one
15 hundred percent of intrastate tolls derived from the operation of such
16 businesses within the city. Gross operating revenues for this purpose shall
17 not include charges which are passed on to the subscribers by a telephone
18 company pursuant to tariffs required by a regulatory order to compensate for
19 the cost of the company of the tax imposed by this chapter.

20 B. Telephone business means the business of providing access to a
21 local telephone network, local telephone switching service, toll service, or
22 coin telephone services, or providing telephonic, video, data or similar
23 communication or transmission for hire, via a local telephone network, toll
24 line or channel, or similar communication or transmission system. It
25 includes cooperative or farmer line telephone companies or associations
operating in exchange. Telephone business does not include the providing of
competitive telephone service, nor the providing of cable television service.

C. 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 R.C.W., and for which a separate charge
is made.

3. That Section 5.04.060 of the Sunnyside Municipal Code be, and same
hereby is, amended to read as follows:

5.04.060 Tax rate--Water, sewer, and garbage services. The tax
provided for in this chapter shall be computed at the rate of six percent of
the gross income derived from each of the following occupations or business
activities conducted within the corporate limits of the city: All persons
engaged in or carrying on the business of selling or supplying domestic
water, sewer services, or collecting or disposing of garbage, and/or sewage
or other wastes, including, but not limited to water, sewer, and garbage

1 and/or sewage or other wastes, including, but not limited to water, sewer,
2 and garbage departments of the city.


3 4. That Section 5.04.065 of the Sunnyside Municipal Code be, and the
4 same hereby is, amended to read as follows:

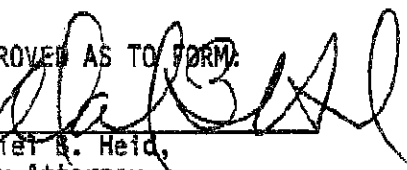
5 5.04.065 Tax rate--Cable television. The tax provided in this section
6 shall be computed at the rate of six percent of a total gross income derived
7 by persons engaged in or carrying on cable television business within the
8 corporate limits of the city. Gross income derived shall mean a total income
9 derived from a monthly charge for cable television, together with HBO or
10 other subscriber service provided of a similar nature. Gross operating
11 revenue shall not include the cost of installing cable service to a customer
12 under the normal rate charge by a cable television company.

13 5. That this Ordinance shall be in full force and effect five (5) days
14 following publication as required by law.

15 PASSED this 16th day of September, 1985.

16 
17 Don Hughes
18 MAYOR

19 ATTEST:
20 
21 Joan M. Smith,
22 Deputy City Clerk

23 APPROVED AS TO FORM:
24 
25 Daniel S. Heid,
City Attorney

PUBLISH: Sunnyside Daily News
September 19, 1985

C E R T I F I C A T E

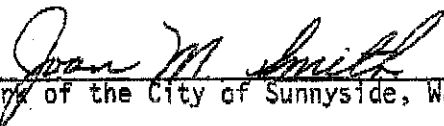
I, the undersigned, Joan M. Smith, the duly appointed, qualified and acting Clerk of the City of Sunnyside, Washington, hereby certify that the Ordinance hereto annexed is a full, true and correct copy of Ordinance No. 1531 of the City of Sunnyside, Washington, entitled as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, AMENDING SECTIONS 5.04.040, 5.04.050, 5.04.060 AND 5.04.065 OF THE SUNNYSIDE MUNICIPAL CODE, RELATING TO TAX RATES FOR UTILITIES--CODIFYING A PREVIOUSLY UNCODIFIED ORDINANCE

That said Ordinance was passed by the Council of said City and was published and posted according to the law; that said Ordinance was duly published in the official newspaper of said City on the 19th day of September, 1985.

Dated this 19th day of September, 19 85.

(SEAL),


Deputy Clerk of the City of Sunnyside, Wash.

Moxee Municipal Code

3.20.040

Chapter 3.20

BUSINESS AND OCCUPATION TAX

Sections:

- 3.20.010 Exercise of licensing power.
- 3.20.020 License required.
- 3.20.030 Imposed.
- 3.20.040 Payment - Due date - Returns.
- 3.20.050 Deductions.
- 3.20.060 Records.
- 3.20.070 Payment - Late penalty.
- 3.20.080 Overpayments.
- 3.20.090 Annexations to city.
- 3.20.100 Rules and regulations.

3.20.010 Exercise of licensing power.

The provisions of this chapter shall be deemed to be an exercise of the power of the city of Moxee to license for revenue. (Ord. 498 § 1, 1993)

3.20.020 License required.

After January 1, 1993, no person, firm or corporation shall engage in or carry on any business, occupation, act or privilege for which a tax is imposed by MMC 3.20.030 or 3.20.040 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/treasurer for such license upon such forms as the clerk/treasurer shall prescribe, giving such information as the clerk/treasurer shall deem reasonably necessary to enable the clerk/treasurer 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. Such business and occupation license shall be personal and nontransferable and shall be valid as long as the licensee shall continue in said business and shall comply with this chapter. (Ord. 498 § 2, 1993)

3.20.030 Imposed.

(1) From and after January 1, 1993, there is hereby levied upon, and shall be collected from, every person, firm, or corporation, including the city of Moxee, engaged in carrying on the following business or services, provided the following are within or partly within the corporation of the city, a tax for the privilege of doing so as hereinafter defined:

(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, business providing garbage collection services, and the providing of water and sewer services within the limits of the city of Moxee there shall be levied a tax equal to six percent of the total gross operating revenue derived from such operations within the city limits of the city of Moxee. 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 chapter, 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 the business within the city of Moxee 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 in any 30-day period.

(2) "Telephone business" means the business of providing access to a local telephone network, local telephone switching service, toll service, cellular telephone service, or coin telephone service, or providing telephonic, video data, or similar communication or transmission for hire, via 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, nor the providing of cable television service.

(3) "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 RCW Title 80 and for which a separate charge is made. (Ord. 498 § 3, 1993)

3.20.040 Payment - Due date - Returns.

(1) The imposed by this chapter shall be due and payable monthly and remittance shall be made

CITY OF MOXEE

BUSINESS LICENSE APPLICATION

NAME OF APPLICANT _____

RECEIVED BY: _____
FEE PAID: _____

BUSINESS NAME _____

RECEIPT NO: _____
DATE: _____

BUSINESS TELEPHONE NO. _____

LICENSE NO. _____
NEW LICENSE
RENEWAL LICENSE

MAILING ADDRESS _____

APPROVED BY: _____

BUSINESS ADDRESS _____

DATE: _____

NATURE OF BUSINESS (GIVE DETAILS)

LOCAL MANAGERS INFORMATION:

NAME	HOME ADDRESS	PHONE NUMBER(S)

LIST OF OWNERS, PARTNERS, OR OFFICERS WITH ADDRESSES AND PHONE NUMBERS

1. _____
2. _____
3. _____
4. _____

PROPERTY OWNER INFORMATION:

Name _____

Parcel No. _____

Address _____

Home Phone Number _____

Other Number _____

NAME AND ADDRESS & PHONE NO. FOR EMERGENCY NOTIFICATION

- HAS THE PROPERTY OWNER BEEN NOTIFIED YES NO
- DO YOU USE OR STORE FLAMMABLE OR HAZARDOUS MATERIALS? YES NO
- DO YOU HAVE AN ALARM SYSTEM? YES NO
- DOES YOUR BUSINESS COLLECT SALES TAX? YES NO
- IS THIS A HOME OCCUPATION? YES NO
- WILL THERE BE ANY TYPE OF GAMBLING ACTIVITIES? YES NO

LIST TOTAL NUMBER OF EMPLOYEES, INCLUDING OWNERS AND MANAGEMENT
FULL TIME _____ PART TIME _____

NAME _____ SIGNATURE _____ DATE _____

PLEASE READ AND SIGN THE BACK OF THIS APPLICATION.

CITY OF MOXEE

(M.M.C. 3.20.020. LICENSE REQUIRED)

No person, firm, or corporation shall engage in or carry on any business, occupation, act or privilege for which a tax is imposed without first having obtained and being the holder of a business license so to do, to be known as a business or occupation license. Each such person firm or corporation shall promptly apply to the City Clerk/Treasurer for such license.

The issuance of the business license is a tax on your business activity and does not entitle you to conduct a business in violation of any Federal, State or local laws applicable to the business operation. The business must be located in an area zoned to permit the business activity. Any construction or remodeling requires a building permit and must conform to the building and fire codes.

For your protection, before you commence business, you are notified to ascertain proper zoning regulations, building code requirements applicable to your business premises and a fire life and safety inspection of your premises. You are also required to notify City Hall in the event of a change in your business location.

I have read the above and I understand that a business license fee is a tax on the business activity and does not entitle me to conduct a business in violation of any Federal, State or local laws applicable to the business. I also understand that I must conform with the proper City of Moxee codes before operating my business

I certify that I have read and understand the above mentioned information on this form. I further certify that the information on the other side of this form is correct.

Signature: _____

Title: _____

Print Name: _____

Date: _____

ORDINANCE 476

AN ORDINANCE REPEALING ORDINANCES 244, 309, 355 AND 391 RELATING TO OCCUPATION TAXES ON TELEPHONE AND ELECTRICITY AND AMENDING ORDINANCE 311, SECTION 18 RELATING TO CABLE FRANCHISE FEES, AND REGULATING AN UTILITY OCCUPATION TAX ON ELECTRIC ENERGY, TELEPHONE BUSINESS, TELEVISION CABLE, WATER SYSTEM, SEWERAGE SYSTEM AND GARBAGE REFUSE.

WHEREAS, the Town currently taxes through a business or occupation tax the business activities of electricity, telephone and television cable services; and,

WHEREAS, the Town currently taxes through a revenue tax on garbage service; and,

WHEREAS, Washington State legislation through the 1983 Substitute House Bill 61 and 1982 Engrossed Senate Bill 4972 modify the applicability and rate limits of certain business occupation taxation; and,

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF NACHES, WASHINGTON, as follows:

Section 1. Exercise of License Revenue Power. The provisions of this chapter shall be deemed an exercise of the power of the Town of Naches to license for revenue.

Section 2. Definitions. In construing the provisions of this ordinance, save when otherwise plainly declared or clearly apparent from the context, the following definitions shall be applied:

(a) "Gross Income" means the value proceeding or accruing from the sale of tangible property or service, and receipts (including all sums earned or charged, whether received or not) by reason of the investment of capital in the business engaged in, including rentals, royalties, fees or other emoluments, however designated (excluding receipts or proceeds from the use or sale of real property or any interest therein, and proceeds from the sale of notes, bonds, mortgages, or other evidence of indebtedness, or stock and the like) and without any deduction on account of losses.

(b) "Person" or "Persons" means person of either sex, firms, corporations, co-partnerships, and other associations of natural persons, whether acting by themselves or by servants, agents or employees.

(c) "Tax Year" or "Taxable Year" means the year commencing January 1 and ending December 31 of the same year, or, in lieu thereof, the taxpayer's fiscal year when permission is obtained from the Town Mayor or his/her designee to use the same as the tax year.

Section 3. Occupation License Required. No person, firm or corporation shall engage in or carry on any business, occupation, pursuit or privilege for which a license fee or tax is imposed by this ordinance without first having obtained, and being the holder of, a valid and subsisting license to do so, to be known as a "utility occupation license." Each person, firm or corporation shall

promptly apply to the Town Clerk/Treasurer for a license upon the appropriate form provided by the Town Clerk/Treasurer, giving such information as reasonably necessary to enable the administration and enforcement of this ordinance: and upon acceptance, the Town Clerk/Treasurer shall thereupon issue such a license to the applicant. A utility occupation license shall be personal and nontransferable.

Section 4. Occupation License Posted. All licenses issued pursuant to the provisions of this ordinance shall be kept posted by the licensee in a conspicuous place in his principal place of business located in the town. No person to whom a license has been issued shall suffer or allow any other persons chargeable with a separate license to operate under or display his license, nor shall such other person operate under or display such license.

Section 5. Occupations Subject to Tax - Amount. There is levied upon, and shall be collected from persons, including the town, on account of certain business activities engaged in or carried on, license fees or occupation taxes in the amount to be determined by the application of rates given against gross income as follows:

- (a) Upon every person engaged in or carrying on the business of selling or furnishing electric energy, a fee or tax equal to six percent (6.0%) of the total gross income derived from such business in the town during the period for which the license fee or tax is due;
- (b) Upon every person engaged in or carrying on a telephone business, a fee or tax equal to six percent (6.0%) of the total gross income, excluding revenues from intrastate toll, derived from such business in the town during the period for which the license fee or tax is due. "Telephone business" means the business of providing access to a local telephone network, local telephone switching service, toll service, cellular telephone services, coin telephone services, 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 cooperative or farmer line telephone companies or associations operating exchanges. For the purpose of this subsection, "gross income" does not include charges which are passed on to the subscriber by a telephone company pursuant to tariffs required by regulatory order to compensate for the cost to the company of the tax imposed by this section, nor competitive telephone service which is a type that can be provided by persons that are not subject to regulation as telephone companies under RCW Title 80 and for which a separate charge is made;
- (c) Upon every person engaged in or carrying on the business of transmitting television by cable, a fee or tax equal to four percent (4.0%) of the total gross income derived from such business in the town during the period for which the license fee or tax is due;
- (d) Upon every person, including the Town, engaged in or carrying on the business of operating or conducting a water system for domestic, business, or industrial consumption, a fee or tax equal to six percent (6.0%) of the total gross income derived from such business in the town during the period for which the license fee or tax is due;
- (e) Upon every person, including the Town, engaged in or carrying on the

business of operating or conducting a sewerage system for domestic, business or industrial use, a fee or tax equal to three percent (3.0%) of the total gross income derived from such business in the town during the period for which the license fee or tax is due;

(f) Upon every person, including the Town, engaged in or carrying on the business of operating or conducting a garbage or solid waste refuse collection system for domestic, business or industrial use, a fee or tax equal to six percent (6.0%) of the total gross income derived from such business in the town during the period for which the license fee or tax is due;

Section 6. License Tax Year. All utility occupation licenses and the fee for the tax therefor shall be for the tax year for which issued and shall expire at the end of the tax year.

Section 7. Customer Tax Base Limit. The rates of tax set forth in this ordinance shall be measured against a maximum of the first two thousand dollars (\$2,000.00) of total gross income derived from any one customer account, metered service, or other separately identified billing account in any one month or fraction thereof. This customer tax base applicability shall only apply to the businesses specifically mentioned in Section 5 (a), (b), and (c), namely the furnishing of electricity, telephone business, and the transmission of television by cable. All other utility occupations subject to this tax shall not be limited by said customer account base limitation and shall apply the tax upon gross income without limitation.

Section 8. Exception and Deductions. There shall be excepted and deducted from the total gross income upon which the license fee or tax is computed so much thereof as is derived from transactions in interstate or foreign commerce, or from business done for the government of the United States, its officers or agents, or any amount paid to the federal, state and local governmental entities as excise taxes levied or imposed upon the sale or distribution of property or services, or business which the town is prohibited from taxing under the constitution or laws of the State of Washington.

Section 9. Remittance Required Quarterly. Commencing with January 1 of the tax year, each three month period constitutes a quarterly period, at which on or before the last day of the month following the end of such quarterly period the license fee or tax for said quarterly period is due. A monthly installment is permissible with the approval of the Town Clerk/Treasurer provided that said installments are likewise due on or before the last day of the succeeding month and further that said monthly installments may not be converted to quarterly period installments except upon January 1 of the tax year.

Section 10. Remittance Authorized for Public Funds. The remittance due by town-operated utility occupations subject to this tax shall be receipted into the Water/Sewer Fund of the Town of Naches.

Section 11. Remittance Upon Sale or Transfer of Business. Upon the sale or transfer during any tax year of a business on account of which a fee or tax is required by this ordinance, the purchaser or transferee shall, if the fee or tax has not been paid in full for the year by the seller,

be responsible for the entire outstanding payment owing, and remit the liability to the town prior to receiving a new utility occupation license.

Section 12. Taxpayer Records. Each taxpayer shall keep accurate records reflecting the amount of gross income on services and disclosing all information necessary to determine the taxpayer's tax liability under this ordinance during each tax base period. Such records shall be kept and maintained for a period of not less than three years. All books, records and other items required to be kept under this section shall be subject to and immediately made available for inspection and audit at any time, with or without notice, at the place where such records are kept, by the town clerk/treasurer or his/her designee, for the purpose of enforcing the provisions of this taxing ordinance.

Section 13. Applications and Returns Confidential. The applications, statements or returns made to the town pursuant to this ordinance shall not be made public, nor shall they be subject to inspection of any person except the mayor, town attorney, town supervisor, town clerk/treasurer or his/her designee, and members of the town council; provided, that this section does not prohibit the town clerk/treasurer from making known or revealing facts contained in any return or disclosed in any examination for official purposes.

Section 14. Enforcement. The town clerk/treasurer shall have the authority, and it shall be his/her duty from time to time, to publish and enforce rules and regulations consistent with this ordinance or with the law for the purpose of carrying out the provisions thereof. It is unlawful to violate or fail to comply with any such rule or regulation.

Section 15. Failure to Make Returns or Pay Full Tax. If any taxpayer fails, neglects or refuses to apply for a license, or make his return, or pay the tax in full as required in this ordinance, the town clerk/treasurer is authorized to determine the amount of the tax payable, and by mail to notify such taxpayer of the amount so determined. The amounts so affixed shall thereupon be the tax and be immediately due and payable. Failure to comply with the provisions of this ordinance will subject the taxpayer to provisions contained in the delinquent penalty sections of the ordinance.

Section 16. Overpayment or Under Payment of Tax. If upon application by a taxpayer for a refund or for an audit of his records, or upon any examination of the returns of any taxpayer, it is determined by the town clerk/treasurer that within three years immediately preceding the application or examination an error has occurred, then;

- (a) If a tax or other fee has been paid in excess of that properly due, the total excess paid over all amounts due to the town within a period of three years shall be credited to the taxpayer's account or shall be paid directly to the taxpayer at the town's option.
- (b) If a tax or other fee has been paid which is less than that properly due, or no tax or fee has been paid, the town clerk/treasurer shall mail a statement to the taxpayer showing the balance due, including the tax amount and penalty assessments and fees, and it is a separate, additional violation of this ordinance, both civil and criminal, if

the taxpayer fails to make such payment in full within ten calendar days of mailing, or fails to appeal the payment per the provisions of Section 22.

Section 17. Delinquent Payment - Penalty. For each quarterly or monthly period payment due under the provisions of this ordinance, if such payment is not made by the persons subject to the tax by the due date thereof, there shall be added a penalty as follows:

- (a) If payment in full is received within thirty (30) days from the due date, five percent (5%) of the accrued tax.
- (b) If payment in full is received between thirty-one (31) and fifty-nine (59) days from the due date, ten percent (10%) of the accrued tax.
- (c) If payment in full is received beyond sixty (60) days from the due date, twenty percent (20%) of the accrued tax.

Section 18. Taxes, Penalties and Fees Constitute Debt to Municipality. Any tax due and unpaid under this ordinance, and all penalties or fees unpaid shall constitute a debt to the Town of Naches, a municipal corporation, and may be collected by court proceedings the same as any other debt in like amount which shall be in addition to all other existing remedies. On any civil action the Town shall recover reasonable attorney fees and audit costs, if the Town is the prevailing party.

Section 19. Limitation on Right to Recovery. The right to recovery by the Town of Naches from the taxpayer for any tax provided hereunder shall be barred after the expiration of three (3) calendar years from the date said tax became due. The right of recovery against the Town of Naches because of overpayment of tax by any taxpayer shall be barred after the expiration of three (3) calendar years from the date such payment was made.

Section 20. False Returns. It shall be unlawful for any person subject to this ordinance to fail or refuse to make application or return for a license or to pay the fee or tax or installment thereof when due, or for any person to make any false or fraudulent application or return or any false statement representation in, or in connection with any such application or return, or the aid or abet another in any attempt to evade payment of the fee or tax, or any part thereof, or to fail to appear at or testify falsely upon any investigation of the correctness of a return or upon the hearing of any appeal or in any manner to hinder or delay the Town or any of its officers in carrying out the provisions of this ordinance.

Section 21. Noncompliance - Penalty. Any person subject to this ordinance who fails or refuses to apply for a utility occupation license or to make tax returns or pay the tax or penalties when due, or who makes any false statement or representation in or in connection with any such application, or who otherwise violates or refuses to comply with the provisions of this ordinance, shall be deemed guilty of a misdemeanor, and each such person is guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this ordinance is committed, continued or permitted, and upon any conviction of any such violation, such person shall be punished by a fine not to exceed five hundred dollars (\$500.00) for each day

or portion thereof which such person is found guilty of noncompliance with the provisions of this ordinance.

Section 22. Appeals to Council. Any taxpayer aggrieved by the amount of the fee or tax found by the Town Clerk/Treasurer to be required under the provisions of this ordinance may appeal to the Town Council from such finding by filing a written notice of appeal with the Town Clerk/Treasurer within seven (7) days from the time such taxpayer was given notice of such amount. The Town Clerk/Treasurer shall as soon as practicable, fix a time and place for the hearing of such appeal, and he/she shall cause a notice of the time and place thereof to be delivered or mailed to the appellant. At such hearing the taxpayer shall be entitled to be heard and to introduce evidence of his own behalf. The Town Council shall thereupon ascertain the correct amount of the fee or tax by resolution and the Town Clerk/Treasurer shall immediately notify the appellant thereof, which amount together with the costs of appeal, if such applicant is unsuccessful therein, must be paid within five (5) days after such notice is given. The Mayor of the Town of Naches may, by subpoena, require the attendance thereof of any person, and may also require him to produce any pertinent books and records. Any person served with such subpoena shall appear at the time and place therein stated, produce the records required, if any, and shall testify truthfully under oath administered by the Mayor as to any matter required of him pertinent to the appeal, and it shall be unlawful for him to fail or refuse so to do.

Section 23. Severability. If any provision or section of this ordinance shall be held void or unconstitutional, all other parts, provisions and sections of this ordinance not expressly so held to be void or unconstitutional shall continue in full force and effect.


The provisions of this ordinance shall become effective and remain in full force and effect on and after the first day of January, 1999. The first quarterly statement as provided in section shall be due on January 31, 1999 for the period of October 1 to December 31, 1998.

Town Ordinances 244, 309, 355, and 391 are hereby repealed and town ordinance 311, section 18 is hereby amended as of December 31, 1998.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF NACHES,
WASHINGTON, this 14th day of December, 1998.


W. Keith Chronister, Mayor

ATTEST:


Julie L. Lawther, Clerk/Treasurer