

3.08.060 Lien provisions. The taxes imposed herein and any interest penalties thereon are a specific lien upon each piece of real property sold from the time of sale or until tax is paid, which lien may be enforced in the manner prescribed for the foreclosure of mortgages. Resort to one course of enforcement is not an election not to pursue the other.

3.08.070 Notation of payment. The taxes imposed herein shall be paid to and collected by the Stevens County Treasurer. The Stevens County Treasurer shall act as agent for the city of Kettle Falls. The Stevens County Treasurer shall cause a stamp evidencing satisfaction of the lien to be affixed to the instrument of sale or conveyance prior to its recording or to the real estate excise tax affidavit in the case of used mobile home sales. A receipt issued by the Stevens County Treasurer for the payment of the tax imposed herein shall be evidence of the satisfaction of the lien imposed hereinunder and may be recorded in the manner prescribed by recording satisfaction of mortgages. No instrument of sale or conveyance evidencing a sale subject to the tax may be accepted by the Stevens County Auditor for filing or recording until the tax is paid and the stamp affixed thereto; in case the tax is not due on the transfer, the instrument shall not be accepted until suitable notation of this fact is made on the instrument by the Stevens County Treasurer.

3.08.080 Date payable. This tax shall become due and payable immediately at the time of sale and if not paid within thirty (30) days thereafter, shall bear interest at the rate of one percent (1%) per month from the time of sale until the date of payment.

3.08.090 Penalties. Any person who fails or refuses to pay the tax as required with the intent to violate the provisions of this ordinance, or to gain some advantage or benefit, either directly or indirectly, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined no more than \$500 (Five hundred and no/100) or imprisoned for not more than six months, or by both such fine and imprisonment.

3.08.100 Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances shall not be affected. (Ord. 1473, 1991).

### Chapter 3.10

#### EXCISE TAX ON UTILITIES

##### Sections:

- 3.10.010 Exercise of power to license for revenue.
- 3.10.020 Definitions.
- 3.10.030 Business license required.
- 3.10.040 Imposed--Amount.
- 3.10.050 Referendum procedures.
- 3.10.060 Deductions.
- 3.10.070 Tax--When due.
- 3.10.080 Delinquency penalty--Collection.
- 3.10.090 Overpayment.
- 3.10.100 Record--Keeping--Inspection.
- 3.10.110 Administrative--Rules.
- 3.10.120 Annexation--Copies of ordinance provided.
- 3.10.130 Violation--Penalty.

3.10.010 Exercise of power to license for revenue. The provisions of this chapter shall be deemed an exercise of the power of the city of Kettle Falls to license for revenue.

3.10.020 Definitions. In construing the provisions of this chapter, 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. "City" means the city of Kettle Falls.

C. "Clerk-Treasurer" means the clerk-treasurer of the city of Kettle Falls.

D. "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 or account of losses, except as otherwise provided for in this chapter. 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 chapter.

E. "Person," "firm," or "corporation" used interchangeably in this chapter means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise, and includes the United States, the state of Washington and any political subdivision thereof, including the city, provided a valid tax may be levied upon or collected therefrom under the provisions of this chapter.

F. "Taxpayer" means and includes any person, firm or corporation liable to the utility tax imposed in this chapter.

G. "Tax-year" or "Taxable year" means either the calendar year or the taxpayers fiscal year when permission is obtained from the clerk-treasurer to use a fiscal year in lieu of a calendar year.

H. "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.

3.10.030 Business license required.

A. No person shall engage in or carry on any business, occupation, pursuit or privilege 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 a "business license," hereinafter referred to as "license," issued under the provisions of this chapter as hereinafter provided, and without paying the license fee or tax imposed by this chapter.

B. Applications for such licenses shall be made to and issued by the clerk-treasurer upon prescribed forms and giving such information as is deemed reasonably necessary to enable the clerk-treasurer to administer and enforce this chapter. The fee or tax for a certificate shall be the tax imposed by Section 3.10.040. Licenses issued pursuant to the provisions of this chapter shall be personal and nontransferable, and shall be valid as long as the person, firm or corporation to whom the same is issued continues in business and complies with the provisions of this chapter.

3.10.040 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 city, a tax to be known as a "utility tax" in the amounts to be determined by the application of the rates herein stated against gross income, as follows:

A. Upon every person, firm or corporation engaged in or carrying on a telephone business a tax equal to six (6%) percent of the total gross operating income.

1. "Telephone business" means the business of providing access to a local telephone network, local telephone network 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. "Telephone business" does not include the providing of competitive telephone service, or providing of cable television service, or other providing of broadcast services by radio or television stations;

B. Upon every person, firm or corporation engaged in or carrying on a telegraph business, a tax equal to six (6%) percent of the total gross income from such business in the city;

C. Upon every person, firm or corporation engaged in or carrying on a business of sale, delivery or distribution of electricity and electrical energy, a tax equal to six (6%) percent of the total gross income derived from the sales of such electricity to ultimate users in the city, provided that there shall not be any such tax levied upon installation charges for electrical units;

D. Upon every person, firm or corporation engaged in or carrying on the business of sale, delivery, distribution or furnishing of natural gas for domestic, business or industrial consumption, a tax equal to six (6%) percent of the total gross income derived from such sales to ultimate users in the city, provided, that there shall not be any such tax levied upon installation charges for gas energy units;

E. Upon every person, firm or corporation engaged in or carrying on the business of sale, delivery, distribution or furnishing of cable television or any other additional television channel service and for the privilege of carrying on such business, such tax to be equal to six (6%) percent of the total gross revenue derived from sales of such cable or television channels to ultimate users within the city; provided, however, that there shall not be any tax levied for the installation charges of television services.

F. Upon every person, firm or corporation engaged in or carrying on the business of sale, delivery, distribution or furnishing of sewer service, a tax equal to twenty percent (20%) of the total gross income from such utility in the city. (Ord. 1525, 1995)

G. Upon every person, firm or corporation engaged in or carrying on the business of sale, delivery, distribution or furnishing of solid waste collection, a tax equal to ten percent (10%) of the total gross income from such utility in the city. (Ord. 1525, 1995)

3.10.050 Referendum procedures. Any registered voter within the city of Kettle Falls seeking a referendum on this ordinance shall file a referendum petition within seven days of passage of the ordinance with the city of Kettle Falls (city clerk-treasurer). Within ten days, the clerk-treasurer 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. The petitioner shall have thirty days in which to secure the signatures of not less than fifteen percent (15%) of the registered voters of the city, 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 city clerk-treasurer 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 city or at a special election ballot as provided pursuant to RCW 29.13.010. This election shall not take place later than one hundred twenty days after the signed petition has been filed with the city clerk-treasurer.

3.10.060 Deductions. In computing the tax levied under this chapter, there shall be deducted from the gross income the following items:

A. Income derived from transactions in interstate or foreign commerce or from any business which the city is prohibited from taxing under the Constitution of the United States or the state of Washington;

B. The amount of credit losses and uncollectibles actually sustained by taxpayers whose regular books of account are kept upon an accrual basis.

3.10.070 Tax-when due. The tax imposed by this chapter shall be due and payable in monthly installments and remittance shall be made on or before the thirtieth day of the month next succeeding the end of the monthly period in which the tax accrued. Whenever the total tax for which any person is liable under this ordinance does not exceed the sum of five dollars (\$5.00) for any monthly period, a quarterly return may be made upon written request and subject to the approval of the clerk-treasurer. (Ord. 1517, 1994; Ord. #1614, 2001)

3.10.080 Delinquency penalty-collection. A. If payment of any fee or tax due under this chapter is not received by the clerk-treasurer on or before the day it become due, there shall be added a penalty in interest as follows:

1. One to forty days delinquency, ten (10%) percent with a minimum penalty of five dollars;

2. Forty-one to seventy days delinquency, fifteen (15%) percent with a minimum penalty of ten dollars; and

3. Seventy-one or more days delinquency, twenty (20%) percent with a minimum penalty of fifteen dollars.

B. Any tax under this chapter 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.

3.10.090 Overpayment. Any money paid to the city 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 city, be refunded to the taxpayer.

3.10.100 Record-keeping-inspection. It shall be the duty of every person, firm or corporation required to obtain a business license by this chapter 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 chapter. The term "books and records" as used in this section, includes the taxpayers copies of federal excise tax returns, state of Washington excise tax returns and copies of excise tax audits made by the United States or state of Washington, and furnished to such person, firm or corporation if any. The taxpayers books and records shall be opened for examination at all reasonable times by the clerk-treasurer or a duly authorized representative.

3.10.110 Administrative-rules. The clerk-treasurer is authorized to adopt, publish and enforce from time to time, such rules and regulations for the proper administration of this chapter as shall be necessary.

3.10.120 Annexation-copies of ordinance provided. Whenever the boundaries of the city are extended by annexation, all persons, firms or corporations subject to this chapter will be provided copies of the annexation ordinance by the city.

3.10.130 Violation-penalty. Any person, firm or corporation subject to this chapter who fails or refuses to apply for a business license or 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 a business license or such tax return, or who otherwise violates or refuses or fails to comply with the provisions of this chapter, or with any rule or regulation promulgated hereunder, is guilty of a misdemeanor. (Ord. 1517, 1994)