

ORDINANCE NO. 640

AN ORDINANCE OF THE TOWN OF ODESSA, WASHINGTON, TO IMPOSE A 6% PUBLIC UTILITY TAX ON CERTAIN UTILITIES.

THE TOWN COUNCIL OF THE ODESSA, LINCOLN COUNTY, WASHINGTON, DOES ORDAIN AS FOLLOWS:

SECTION 1: Purpose: An Ordinance of the Town of Odessa to impose a 6% utility tax on certain utilities

SECTION II: Provisions: The provisions of this Ordinance shall be deemed an exercise of the power of the Town to collect revenue from the public utility tax.

SECTION III: Definitions: In construing the provisions of this Ordinance, except when otherwise declared or clearly apparent from the context, the following definitions shall be applied:

“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.

“Town” means the Town of Odessa.

“Clerk-Treasurer” means the clerk-treasurer of the Town of Odessa.

“Person or persons” mean all persons, firms, partnerships, corporations and other associations of natural person, whether acting by themselves or by servants, agents or employees.

“Tax year” or “taxable year” means the year commencing January 1<sup>st</sup> 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-Treasurer’s fiscal year when permission is obtained from the Town Clerk-Treasurer to use the same as the tax period.

“Gross Income” means the value proceeding or accruing from the sale of tangible property or services, 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 evidences of indebtedness, or stock or the like) and without any deduction on account of the property sold, the cost of materials used, labor costs, interest or discount paid or any expense whatsoever, and without any deduction on account of losses.

“Taxpayer” means and includes any person, firm or corporation liable to the utility tax imposed by this Ordinance.

SECTION IV: 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 Ordinance without first having obtained, and being the holder of a valid and subsisting license so to do, to be known as a “business license,” hereinafter referred to as “license.”

SECTION V: Imposed Amount:

- A) Upon every person, firm or corporation engaged in or carrying on a telephone business, a tax equal to six percent of the total gross operating income, including income from intra-state toll derived from the operation of such businesses within the town. “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.

SECTION VI: Deductions: In computing the tax levied under this Ordinance, there shall be deducted from the gross income the following items:

- A) Income derived from transactions in interstate or foreign commerce or from transactions from any business, which the Town is prohibited from taxing under the Constitution of the United States or the State of Washington.
- B) The amount of credit losses and uncollectible actually sustained by taxpayers whose regular books of account are kept upon an accrual basis.
- C) Adjustments made to billing or to a customer account in order to reverse a billing or charge that had been made as a result of third-party fraud or other crime and was not properly a debt of a customer.

SECTION VII: Payments: The tax imposed by this Ordinance shall be due and payable in monthly installments. Remittance shall be made on or before the thirtieth day of the month on or before the due date, the taxpayer shall file with the Town Clerk-Treasurer a written return, upon such form and setting forth such information as the Clerk-Treasurer shall reasonably require, together with the payment of the amount of the tax. On the return, the taxpayer shall be required to swear or affirm that the information therein given is full and true and that the taxpayer knows the same to be so.

SECTION VIII: Delinquency Penalty-Collections:

- A) If payment of any tax due under this Ordinance is not received by the Clerk-Treasurer on or before the day it becomes due, there shall be added a penalty in interest as follows:
1. One to forty days delinquency, ten percent, with a minimum penalty of five dollars;
  2. Forty-one to seventy days delinquency, fifteen percent with a minimum penalty of ten dollars' and
  3. Seventy-one or more day's delinquency, twenty percent with a minimum penalty of fifteen dollars.
- B) Any tax due under this Ordinance and unpaid and all penalties thereon, shall constitute a debt to the Town and may be collected by court proceeding, which remedy shall be in addition to all other remedies.

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

SECTION X: Changes to Town boundaries by annexation: Whenever the boundaries of the Town are extended by annexation, all persons, firms and corporations subject to the Ordinance will be provided copies of all annexation Ordinances by the Town.

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

SECTION XI: Rules and Regulations: The Town Clerk-Treasurer is authorized to adopt, publish and enforce, from time to time, such rules and regulations for the proper administration of this Ordinance as shall be necessary.

SECTION XII: Effective Date: Pursuant to RCW 35.21.865, this Ordinance shall be effective sixty (60) days after its passage, approval and publication.

PASSED AND APPROVED BY THE ODESSA TOWN COUNCIL ON THIS 22<sup>nd</sup> day  
of November 2010.

Published: November 24, 2010

---

Doug Plinski Mayor

ATTEST:

---

Linda Burghard, Clerk-Treasurer