

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE TOWN OF GARFIELD, WASHINGTON, adopting new Garfield Municipal Code Chapter 3.12, thereby imposing a public utility tax on the gross revenues from the sale of electricity, telephone, and water/sewer/garbage services, authorizing a referendum as required by R.C.W. 35.21.706, and fixing an effective date as required by R.C.W. 35.21.865.

BE IT ORDAINED by the Council of the Town of Garfield as follows:

Section 1. There is hereby enacted as Garfield Municipal Code Chapter 3.12 the following:

**"CHAPTER 3.12  
UTILITY TAX**

- 3.12.010 - Scope and intent**
- 3.12.020 - Definitions**
- 3.12.030 - Amount**
- 3.12.040 - Payment**
- 3.12.050 - Deductions**
- 3.12.060 - Record keeping**
- 3.12.070 - Overpayment credit or refund**
- 3.12.080 - Delinquency penalty and collection**
- 3.12.090 - Changes to Town boundaries by annexation**
- 3.12.100 - Rules and regulations**

**3.12.010 - Scope and intent.** The provisions of this chapter shall be deemed to be an exercise of the power of the Town to license for revenue.

**3.12.020 - Definitions.** In construing the provisions of this chapter, 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 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.

(B) "Person or persons" mean all persons, firms, partnerships, corporations and other associations of natural persons, whether acting by themselves or by servants, agents or employees.

(C) "Taxpayer" means any person liable for the license fee and occupation 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.

**3.12.030 - 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 business of sale, delivery or distribution of electricity and electrical energy, a tax equal to four percent of the total gross income derived from the sales of such electricity to ultimate users in the Town, provided that there shall not be any such tax levied upon installation charges for electrical units.

(B) Upon the Town of Garfield a tax equal to six percent of the total, gross-income derived

from furnishing water, sewer, and garbage disposal services.

(C) Upon every person, firm or corporation engaged in or carrying on a telephone business, a tax equal to four percent of the total gross operating income, including income from intra-state tolls derived from the operation of such businesses within the Town.

The statutory definitions of "telephone business" and "competitive telephone service," as set forth in RCW 82.04.065 and as hereafter amended, are adopted for purposes of this Chapter. "Telephone business" does not include the providing of competitive telephone service, nor the providing of cable television service, but does include the providing of cellular telephone service.

**3.12.040 - Payment.** (A) The tax imposed by this chapter 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. Such quarterly periods are as follows:

- (1) First quarter, January, February, March;
- (2) Second quarter, April, May, June;
- (3) Third quarter, July, August, September;
- (4) Fourth quarter, October, November, December.

(B) The first quarterly installment shall be due April 30, 2008, and shall include all taxes coming due hereunder from February 1, 2008, through March 31, 2008. On or before the due date, the taxpayer shall file with the Town Clerk a written return, upon such form and setting forth such information as the Clerk shall reasonably require, together with the payment of the amount of the tax.

**3.12.050 - Deductions.** In computing the tax, there may be deducted from the gross operating revenues the following items:

(A) The amount of credit losses and uncollectible accounts actually sustained by the taxpayer.

(B) Amounts from a business which the Town is prohibited from taxing under the Constitution of this State or the Constitution or laws of the United States.

(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.

**3.12.060 - Record keeping.** Each taxpayer shall keep records reflecting the amount of the taxpayer's gross operating revenues, and such records shall be open at all reasonable times to the inspection of the Town Clerk or his/her duly authorized subordinates, for verification of the tax returns or for fixing of the tax of a taxpayer who shall fail to make such returns.

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

**3.12.080 - Delinquency penalty and collection.** (A) If payment of any fee or tax due under this chapter is not received by the Clerk 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 days delinquency, twenty percent with a minimum penalty of fifteen dollars.**

**(B) Any tax due under this chapter and unpaid, and all penalties thereon, shall constitute a debt to the Town and may be collected by court proceedings, which remedy shall be in addition to all other remedies available in law or equity.**

**3.12.090 - Changes to Town boundaries by annexation. Whenever the boundaries of the Town are extended by annexation, all persons, firms and corporations subject to this chapter will be provided copies of all annexation ordinances by the Town.**

**3.12.100 - Rules and regulations. The Town Clerk 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, and it shall be a violation of this chapter to violate or to fail to comply with any such rule or regulation lawfully promulgated hereunder."**

Section 2. Any registered voter within the Town of Garfield seeking a referendum on this ordinance shall file a referendum petition within seven days of passage of the ordinance with the Town of Garfield (Town Clerk). Within 10 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. The petitioner shall have 30 days in which to secure the signatures of not less than 15 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 as provided pursuant to R.C.W. 35.17.260(2).

Section 3. In accordance with R.C.W. 35.21.865, this Ordinance shall be effective May 1, 2008.

PASSED by the Town Council of the Town of Garfield at its regular meeting on \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Jarrod Pfaff, Mayor

Attest: \_\_\_\_\_  
Clerk

Approved as to form:

\_\_\_\_\_  
Stephen Bishop,  
Town Attorney

Passed: \_\_\_\_\_

Published: \_\_\_\_\_

Effective date: \_\_\_\_\_