

**ORDINANCE NO. 2008-1**

**AN ORDINANCE OF THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA AMENDING SECTION 22-31 OF THE WAYNE CITY MUNICIPAL CODE TO LEVY AN OCCUPATION TAX ON MOBILE TELECOMMUNICATION SERVICES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.**

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF WAYNE, NEBRASKA:

SECTION 1. That Section 22-31 of the Wayne City Municipal Code be amended to read as follows, to-wit:

**§ 22-31 Occupation Tax; Telephone Companies and Telecommunications Companies.**

A. *Revenue Measure.* The provisions of this section are enacted solely as a revenue measure of the city.

B. *Telephone Companies and Telecommunications Companies.* An occupation tax is hereby levied and imposed on every person who engages in the business of providing local exchange telephone service, intrastate message toll telephone service and mobile telecommunications services for revenue in the city.

C. *Mobile Telecommunications Services, defined.* As used in this section, mobile telecommunications services shall mean a wireless communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes: (1) Both one-way and two-way wireless communications services; (2) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations, whether on an individual, cooperative, or multiple basis for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation; and (3) any personal communications service.

D. *Amount of Tax: Federal and State Governments, Exempt.* An occupation tax is levied and imposed in the amount of five percent (5%) of the annual gross receipts of the telephone company or telecommunications company receiving local exchange telephone services and intrastate message toll service from subscribers within the corporate limits of the City and each customer receiving mobile telecommunications services that originates and terminates within the state to a customer with a place of primary use within the corporate limits of Wayne, Nebraska. No part or portion of the tax provided for the article shall be levied upon or assessed against telephone service or mobile telecommunications services to the United State Government, the government of the State, the City or any of their departments.

E. Monthly payments; due dates. The payment of any occupation tax levied and imposed by the provisions of this article shall be made in monthly payments. Each monthly payment shall be due fifteen (15) days immediately following the termination of each month.

F. Statement to be filed. Every person coming within the provisions of this article shall, on or before the fifteenth day of the month, immediately following the termination of each calendar year, file with the City Clerk, a full, complete and detailed statement of customers for the preceding three (3) calendar months, omitting therefrom the appropriate exceptions and exemptions, if any. All statements shall be duly verified as true and correct and sworn to by the manager of managing officer of such person.

G. City's right to inspect. The City shall have the right at any time and all times during business hours to inspect, through the comptroller or some other office appointed by the City Council, the books and records of any person coming under the provisions of this article for the purpose of ascertaining the correctness of the required statement.

H. Failure to file statement; interest and penalty. In the event any person coming under the provisions of this article shall refuse, fail or neglect to furnish or file the required statement at the time or times specified, the occupation tax of the preceding three (3) calendar months shall draw interest at the rate of one (1) percent per month after due and payable, and in addition thereto, a penalty of five (5) percent for the failure to file.

I. Interest and penalty on delinquent payments. All delinquent payments shall draw interest at the rate of one (1) percent per month; and, if delinquent for six (6) months or more, penalty of five (5) percent shall be added thereto in addition to the interest charge.

J. Collection of tax by civil action. In case any person shall fail to make payment of the occupation tax as required by this article, the City shall have the right and may sue any such person or persons in any court of competent jurisdiction for the amount of the occupation tax due and payable and may recover judgment against such person for the amount due, together with interest and penalties, and may have execution thereon.

K. Disposition of receipts. The occupation taxes paid under the provisions of this article shall be credited to the general fund of the City.

Section 2. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. That this ordinance shall take effect and be in full force and effect from and after its passage, approval and publication as provided by law.

PASSED AND APPROVED this 5<sup>th</sup> day of February, 2008.

THE CITY OF WAYNE, NEBRASKA,

By \_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_

City Clerk

APPROVED AS TO FORM AND CONTENT:

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City Attorney