

**SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET**

ITEM NO: A-8

DATE: November 13, 2008

SUBJECT: Ordinance No. 1006-08 Establishing a 6% Utility Tax for Stormwater Services

CONTACT PERSON: Laura Koenig, Deputy Finance Director

ISSUE:

The issue before the City Council is to have First Reading of Ordinance No. 1006-08 establishing a 6% utility tax for stormwater services.

This ordinance amends Chapter 3.52 of the Sultan Municipal Code by amending Section 3.53.020 A to add a subsection for Stormwater. The City currently imposes a similar tax on other city provided utilities including water, sewer and garbage.

STAFF RECOMMENDATION:

Have First Reading of Ordinance No. 1006-08 (Attachment A) revising chapter 3.52 of the Sultan Municipal Code by amending section 3.53.020A to add subsection 7 "Stormwater" imposing a six percent utility tax on the same.

SUMMARY:

The City Council established a stormwater utility fund in 2007. In 2008, the City Council adopted a stormwater utility and a stormwater utility fee. The utility fee will be effective December 1, 2008. Customers will receive their first stormwater utility bill in January 2009.

Cities and towns may levy a municipal business tax of up to 6% on electricity, telephone, natural gas, and steam energy utilities, unless a higher rate is approved by voters. There is no rate limit on other services (garbage, water, sewer, and cable TV).

City staff recommend establishing the 6% tax and dedicating the revenues to the General Fund in 2009. The tax revenues would be used to offset the cost of additional budget items such as a copy machine identified through the budget process .

The Association of Washington Cities 2008 User Fee and Tax Survey (Attachment C) reports 63 cities impose a utility tax on storm drainage utilities. The average rate is 7.24%.

FISCAL IMPACT:

The City Council established a 6% utility tax on the City's water, sewer and garbage services. This proposal establishes the same tax on the City's newly created Stormwater Utility.

The 6% utility tax will raise approximately \$6,000. The utility tax would add .345 cents on the \$5.75 base stormwater utility fee.

ALTERNATIVES:

1. Have First Reading of Ordinance No. 1006-08 and pass the Ordinance on for Second Reading on December 11, 2008.
2. Have First Reading of Ordinance No. 1006-08, pass the ordinance on for Second Reading. Direct staff to areas of concern so the Ordinance may be amended prior to Second Reading
3. Do not have First Reading of Ordinance No. 1006-08.

RECOMMENDED ACTION:

Have First Reading of Ordinance No. 1006-08 (Attachment A) revising chapter 3.52 of the Sultan Municipal Code by amending section 3.53.020A to add subsection 7 "Stormwater" imposing a six percent utility tax on the same.

ATTACHMENT

- A – Ordinance No. 1006-08
- B – Ordinance No. 908-06
- C – AWC 2008 User Fee and Tax Survey

**CITY OF SULTAN
ORDINANCE NO. 1006-08**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON
REVISING CHAPTER 3.52 SULTAN MUNICIPAL CODE BY AMENDING SECTION 3.53.020 A TO
ADD SUBSECTION 7 "STORMWATER", IMPOSING A 6% UTILITY TAX ON THE SAME.

It is hereby ordained by the City Council of the City of Sultan, Washington as follows:

Section 1. Sultan Municipal Code Section 3.52.020 A is hereby amended to add subsections 7 to read as follows:

- 7 Stormwater. There shall be levied upon the City of Sultan a tax equal to six percent of the gross revenue derived from each customer's monthly service charge for stormwater service within or without the city but provided by the City of Sultan.

Section 2. If any section of this ordinance, or if any subsection or part shall be declared unlawful, the balance of this ordinance, and of each section shall remain in full force and effect.

Section 3. This Ordinance shall become effective five days after publication as required by law.

PASSED by the City Council and APPROVED by the Mayor this day of December 2008.

CITY OF SULTAN

By _____
CAROLYN ESLICK, Mayor

ATTEST:

By _____
LAURA KOENIG, City Clerk

Approved as to form:

By _____
MARGARET KING, City Attorney

**CITY OF SULTAN
ORDINANCE NO. 908-6**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON REVISING CHAPTER 3.52 SULTAN MUNICIPAL CODE BY AMENDING SECTION 3.52.010 C. "TELEPHONE BUSINESS," AMENDING SECTION 3.52.010 TO ADD SUBSECTIONS D "COMPETITIVE TELEPHONE SERVICE" AND E "CELLULAR TELEPHONE SERVICE", AMENDING SECTION 3.53.020 A TO ADD SUBSECTIONS 4 "SEWER", 5 "WATER", AND 6 "GARBAGE", IMPOSING A 6% UTILITY TAX ON THE SAME, AND TO ADD SECTION 3.52.045 "ALLOCATION OF INCOME CELLULAR TELEPHONE SERVICE".

It is hereby ordained by the City Council of the City of Sultan, Washington as follows:

Section 1. Sultan Municipal Code Section 3.52.010 C is hereby amended to read as follows:

- C. "Telephone business" means the providing by any person of access to a telephone network, telephone network switching service, toll service, or coin telephone services, or the providing of telephonic, video, data, or similar communication or transmission for hire, via a telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. It includes cooperative or farmer line telephone companies or associations operating an exchange. It also includes the provision of transmission to and from the site of an internet provider via a 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, the providing of cable television service, the providing of broadcast services by radio or television stations, nor the provision of internet service as defined in RCW 82.04.297, including the reception of dial-in connection, provided at the site of the internet service provider.

Section 2. Sultan Municipal Code Section 3.52.010 is hereby amended to add subsections D and E to read as follows:

- D. "Competitive telephone service" means the providing by any person of telecommunications equipment or apparatus, or service related to that equipment or apparatus such as repair or maintenance service, if the equipment or apparatus is of a type which can be provided by persons who are not subject to regulation as telephone companies under Title 80 RCW and for which a separate charge is made.
- E. "Cellular telephone service" means 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 (WUTC). This includes cellular mobile service. The definition of cellular mobile service includes other wireless radio communications services such as specialized mobile radio (SMR), personal communications services (PCS), and any other evolving wireless radio communications technology that accomplishes a purpose similar to cellular mobile service.

Section 3. Sultan Municipal Code Section 3.52.020 A is hereby amended to add subsections 4, 5 and 6 to read as follows:

4. Sewer. There shall be levied upon the City of Sultan a tax equal to six percent of the gross revenue derived from each customer's monthly service charge for sewer service within or without the city but provided by the City of Sultan.
5. Water. There shall be levied upon the City of Sultan a tax equal to six percent of the gross revenue derived from each customer's monthly service charge for water service within or without the city but provided by the City of Sultan.
6. Garbage. There shall be levied upon the City of Sultan a tax equal to six percent of the gross revenue derived from each customer's monthly service charge for garbage collection service within or without the city but provided by the City of Sultan.

Section 4. Chapter 3.52 Sultan Municipal Code is hereby amended to add a new section 3.52.045 "Allocation of Income Cellular Telephone Service" reading as follows:

3.52.045 Allocation of income — Cellular telephone service

- A. Service Address. Payments by a customer for the telephone service from telephones without a fixed location shall be allocated among taxing jurisdictions to the location of the customer's principal service address during the period for which the tax applies.
- B. Presumption. There is a presumption that the service address a customer supplies to the taxpayer is current and accurate, unless the taxpayer has actual knowledge to the contrary.
- C. Roaming Phones. When the service is provided while a subscriber is roaming outside the subscriber's normal cellular network area, the gross income shall be assigned consistent with the taxpayer's accounting system to the location of the originating cell site of the call, or to the location of the main cellular switching office that switched the call.
- D. Dispute Resolution. If there is a dispute between or among the city and one or more other cities, as to the service address of a customer who is receiving cellular telephone services and the dispute is not resolved by negotiation

among the parties, then the dispute shall be resolved by the city and the other city or cities by submitting the issue for settlement to the Association of Washington Cities (AWC). Once the taxes on the disputed revenues have been paid to one of the contesting cities, the cellular telephone service company shall have no further liability with respect to additional taxes on the disputed revenues so long as it changes its billing records for future revenues to comport with the settlement facilitated by AWC.

Section 5. If any section of this ordinance, or if any subsection or part shall be declared unlawful, the balance of this ordinance, and of each section shall remain in full force and effect.

Section 6. This Ordinance shall become effective five days after publication as required by law.

PASSED by the City Council and APPROVED by the Mayor this 22nd day of February 2006.

CITY OF SULTAN

By _____
BEN TOLSON, Mayor

ATTEST:

By _____
LAURA KOENIG, City Clerk

Approved as to form:

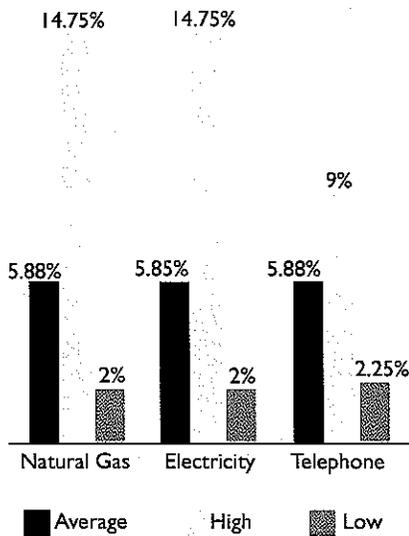
By _____
THOM H. GRAAFSTRA, City Attorney

Date of Publication: February 25, 2006

Utility Taxes

A utility tax is a tax levied on the gross operating revenues of a utility within the boundaries of a city as well as the city's own utilities. Cities may levy the tax at a rate of six percent on electric, natural gas, steam energy, and telephone, unless a higher rate is voter approved. There is no limit on other utilities.

Selected City Utility Tax Rates



Two hundred and thirteen cities report imposing a utility tax. Eight cities impose a voter-approved utility tax above the statutory limit of six percent on electric, natural gas, and/or telephone. Seventy cities provide a discount, rebate and/or exemption for certain populations, such as low-income, people with disabilities, or seniors.

Utility Taxes				
	Number of cities imposing tax	Average	High	Low
Natural gas	137	5.88%	14.75%	2%
Electricity	198	5.85%	14.75%	2%
Telephone*	195	5.88%	9%	2.25%
Water	156	7.84%	32%	1%
Sewer	144	7.71%	32%	1%
Storm drainage	63	7.24%	20%	1%
Cable TV	122	5.53%	10%	1%
Garbage	145	7.64%	40%	2%

*Some cities impose a different rate for cellular phones.

Franchise Fees

Cities collect franchise fees for cable, garbage, water or sewer. Most franchise fees are based on a percentage of gross receipts; nine cities impose a flat fee or other arrangement for garbage. Franchise fees on cable are limited to five percent.

Franchise Fees		
	Number of cities imposing tax	Average
Cable	145	4.57%
Garbage	24	6.35%
Water	8	5.99%
Sewer	4	6.50%

2008
AWC User Fee and Tax Survey