

ORDINANCE NO. 3126

AN ORDINANCE TO ADD DIVISION ENTITLED "TELECOMMUNICATION OCCUPATION TAX" AND SECTIONS 110.11 OF THE FAIRBURY CITY CODE, TO REPEAL CONFLICTING ORDINANCES; AND TO PROVIDE FOR PUBLICATION IN PAMPHLET FORM AND TO PROVIDE FOR PUBLICATION IN PAMPHLET FORM AND FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

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

SECTION 1. That Division "Telecommunication Occupation Tax", and Section 110.11 be added to the Fairbury City Code as follows:

"TELECOMMUNICATION OCCUPATION TAX"

§110.11 Occupation Tax; Telephone Companies and Telecommunications Companies.

Commencing October 1, 2024, there is hereby levied upon every person, firm, partnership, corporation, or association engaged in the business of offering or providing telecommunication services to the public for hire in the City of Fairbury an occupation tax as follows:

- (a) Four percent 4.00% on the gross receipts resulting from any toll services and charges on basic local exchange services; inter-exchange services; mobile services; and other telecommunication services as follows:
 - (1) Basic local exchange services shall include the access and transmission of two-way switched communications within the city, including local telephone and telecommunication services;
 - (2) Inter-exchange services shall mean the access and transmission of communications between two or more local exchange areas, provided that such inter-exchange service either (a) originates from an end user within the city or (b) terminates with an end user within the city, and is charged to a service address within the city regardless of where the charges are actually paid;
 - (3) Mobile services shall include any radio or similar communication services provided pursuant to license or authority granted by the Federal Communications Commission, charged to a service address within the city regardless of where the charges are actually paid, including cellular, radio paging, and mobile radio services; and
 - (4) Any other similar telecommunication services involving any electronic or electromagnetic transmission of messages originating and terminating in the State of Nebraska and charged to a service address in the City of Fairbury, regardless of where the charges are actually paid.

Telecommunication Occupation Tax, Internet Tax Freedom Act.

Taxation for Internet usage shall be excepted as contained in The Internet Tax Freedom Act, 47 U.S.C. §151.

When due and payable; manner of payment; penalty for late payment.

On or before the last day of each and every month, said companies shall pay to the City of Fairbury a percentage of the gross receipts as provided in Section 110.08 from the preceding month as an occupation tax; provided that if the total amount due and payable is less than ten dollars (\$10.00), then the occupation tax shall be due and payable on the first day of May each year. Such businesses shall be entitled to a credit for any occupation tax, or other similar tax based on gross receipts, satisfactorily documented or verified as paid to any other jurisdiction

upon any gross receipts taxed herein. All deferred payments shall draw interest at the rate of one percent (1%) per month. After default for six months, a penalty of five percent (5%) shall be added in addition to the interest charges.

Report of gross receipts; City's right of inspection.

Every company taxed by this division shall make a report to the mayor and city council of all income and gross receipts of such company during the period for which such tax is due. Said report shall be submitted to the City Treasurer on the last day of each month and shall be a full, complete and detailed statement of the income and gross receipts, omitting any exemptions provided for in Section 110.08 hereof, and said statement shall be duly verified and sworn to by the officer or officers in charge of the business. All such businesses shall at any reasonable times during business hours permit the city, through its officers, agents or representatives, to inspect the books and records of any such business for the purpose of verifying such report or reports.

Payment to Treasurer; receipt; record.

The occupation taxes levied and provided for by this chapter shall be paid to the City Treasurer who shall, upon payment thereof, give a receipt, properly dated, and specifying the person paying the same, and amount thereof, and the time for which the same takes effect. The Treasurer shall keep a record of the receipts so issued.

Tax, When Due; City Treasurer to collect.

It is hereby made the duty of any person desiring to exercise, carry on or engage in any occupation within the provisions of this chapter, to pay to the City Treasurer the amount specified for the occupation tax, as provided for in this chapter. The amount of the occupation tax shall be due and payable to the City Treasurer immediately after such person shall begin business in any occupation within the provisions of this chapter.

City Attorney; enforce collection.

The City Attorney may bring suit in the name of the City against any person, corporation, firm, or association in any court of competent jurisdiction of the amount of such tax levied by this chapter, together with interest and penalties, upon the failure of such person, corporation, firm, or association to pay the same as herein provided, whenever the City Attorney is so directed by the City Treasurer.


Tax credited to fund designated by Council.

The money realized from the collection of the occupation taxes provided for in this chapter shall be placed to the credit of the General Fund or such other fund or funds as designated by the City Council."

SECTION 2. That all ordinances or parts of ordinances that are in conflict here are hereby repealed.

SECTION 3. This ordinance shall take effect and be in full force from and after its passage, approval and publication or posting as required by law.

PASSED AND APPROVED this 5th day of November 2024.


Spencer Brown, Mayor

Attest:


Erin Reimer, City Clerk