

ORDINANCE NO. 3404

TITLE: AN ORDINANCE PROVIDING FOR A TAX UPON THE PRIVILEGE OF ENGAGING IN THE ELECTRICAL POWER AND LIGHT BUSINESS WITHIN THE CITY OF ALBANY, PROVIDING FOR PENALTIES FOR VIOLATION AND ESTABLISHING AN EFFECTIVE DATE OF ORDINANCE.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: DEFINITIONS

In construing the provisions of this Ordinance, the following definitions shall be applied, unless otherwise stated:

- a) **PERSON.** Shall mean any company, corporation, association, partnership or individual.
- b) **TAXPAYER.** Shall mean any person subject to the payment of the tax herein provided.
- c) **ELECTRICAL POWER AND LIGHT BUSINESS.** Shall mean the business of selling, at wholesale or retail, electrical energy.
- d) **GROSS OPERATING REVENUE.** Shall mean revenue accruing from the electrical power business transacted within the corporate limits of the City of Albany. In case the taxpayer is a public utility, subject to regulation under the statutes of Oregon, gross operating revenue shall mean that amount required to be credited by the taxpayer to the taxpayer's operation within the City of Albany under the uniform system of accounts prescribed by the regulatory body of the state having jurisdiction. There shall be no deduction for the cost of commodity, cost of materials used, labor, interest, discount, delivery costs and other expenses, unless otherwise provided in this Ordinance.

Section 2: AMOUNT OF TAX

There is hereby imposed an annual occupational tax upon the electric light and power business for the privilege of engaging in business within the City of Albany. The tax shall begin on the first day of July, 1969, and shall be in an amount equal to 3 1/2% of the gross revenue of said business during the calendar year next preceding the date of payment of tax, less the deductions and exclusions herein provided.

Section 3: PAYMENT

The tax shall be payable on or before the 31st day of January, 1970, and on or before January 31 of each year thereafter; provided that, on or before July 15, 1969, the taxpayer shall pay a tax equal to 3 1/2% of one-half the gross operating revenue of the calendar year 1968, less deductions and exclusions, according to the return thereof heretofore filed by taxpayer pursuant to former Ordinance No. 2703. The taxpayer, on or before January 31 of each year shall make the return setting forth the gross operating revenue of the business for the next preceding calendar year, less deductions and exclusions herein provided, and transmit the same to the City Manager of the City of Albany.

Section 4: EXCEPTIONS AND DEDUCTIONS

There shall be excepted and deducted from the total gross operating revenues, revenues derived from the sale of electric energy at wholesale in interstate commerce, or from business done with the government of the United States, or any agency thereof, and after deducting therefrom all uncollectible revenues within the city and any amounts paid to the United States or the State of Oregon as excise, occupation or business taxes upon the sale or distribution of electric service in the city.

Section 5: BOOKS OF ACCOUNT

Each taxpayer shall keep books of account which properly reflect the amount of gross operating revenue. Said books of account shall be open to the inspection of the City Manager for the purpose of verifying the required amount of tax to be paid.

Section 6: FAILURE TO MAKE RETURN

If the taxpayer fails to make a return or the City Manager is dissatisfied as to the correctness of the return, the City Manager may fix a time and place for the investigation of the incorrectness of the return, and may, by subpoena, require the taxpayer to produce for investigation such books of account as may be necessary to properly ascertain the amount of tax due. After ascertaining the proper amount of taxes due, the City Manager shall notify the taxpayer of his findings. If additional tax is due and is not paid within ten (10) days after receipt of the notice, the City Manager shall notify the City Attorney to enforce collection of the same.

It shall be unlawful for any person liable to tax hereunder to fail to make a return or to fail to pay the tax when due, or for any person to make any false or fraudulent return or false statement or representations in connection with any such return or to allow or to abet another in any attempt to evade payment of tax or failure to appear and testify in response to a subpoena issued in pursuance hereto, or to testify falsely upon any investigation of the correctness of a return, or in any manner to hinder or delay the City or any of its officers in carrying out the provisions of this ordinance.

Section 7: LIENS

The tax herein assessed shall be a lien against all taxable property of the person located in the City of Albany and shall be subject to collection in like manner as liens for special assessments for improvements on property located within the City of Albany.

Section 8: CONSTITUTIONALITY

If any provision or section of this Ordinance shall be held void or unconstitutional, all other parts, provisions and sections of this Ordinance, not expressly so held to be void or unconstitutional, shall continue in full force and effect.

Section 9: WAIVER OF FREE SERVICE

The City of Albany, by imposing this occupational tax, hereby waives, relinquishes and releases any and all rights it may have under the terms of any existing franchise for free service from any utility engaged in the electrical power and light business within the corporate limits of the City.

Section 10: VIOLATION

Any person violating the provisions of this ordinance shall, upon conviction thereof in the Municipal Court, be punished by a fine not to exceed FIVE HUNDRED DOLLARS (\$ 500.00). Each day of continued violation shall be considered a separate offense and be subject to punishment as a separate offense.

Section 11: REPEALING CLAUSE

All Ordinances or parts of Ordinances in conflict herewith are specifically repealed.

Section 12: EFFECTIVE DATE

Inasmuch as this Ordinance should become effective as to all provisions hereof on the 1st day of July, 1969, as a date certain, now, therefore, the effective date of this Ordinance is hereby declared and established as July 1, 1969.

Passed by the Council: May 14, 1969

Approved by the Mayor: May 14, 1969

Russell *W. J. Papp*
Mayor

Effective Date: July 1, 1969

ATTEST:

Ernest J. Sabau
City Recorder