

TITLE: AN ORDINANCE PROVIDING FOR A TAX UPON THE PRIVILEGE OF ENGAGING IN THE CONSTRUCTION, MAINTENANCE AND OPERATION OF A GAS UTILITY SYSTEM WITHIN THE CITY OF ALBANY, GRANTING THE USE OF STREETS AND BRIDGES FOR TRANSMISSION AND DISTRIBUTION FACILITIES UPON PAYMENT OF TAX, PROVIDING FOR PENALTIES AND DECLARING AN EMERGENCY.

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 payment of a tax herein provided.
- c) **NATURAL GAS UTILITIES SYSTEM.** Shall mean the business of constructing, maintaining and selling at wholesale or retail natural gas and the distribution thereof.
- d) **GROSS LOCAL SERVICE REVENUES.** Shall be as defined under Order Number 43946 of the Public Utility Commissioner of the State of Oregon, said order being entered on November 6, 1967, and stated as follows:

"Gross Revenues shall mean revenues received by utilities from operations within the city less net uncollectibles. Gross revenues of gas shall include revenues from the use, rental or lease of operating facilities of the utility other than residential-type space and water heating equipment. Gross revenues shall not include proceeds from the sale of bonds, mortgages or other evidences of indebtedness, securities or stock, sales at wholesale by one public utility purchasing the services is not the ultimate consumer, revenue from joint pool use or revenue paid directly to United States of America or any of its agencies.

Section 2: AMOUNT OF TAX.

There is hereby imposed a quarterly occupational tax upon the natural gas utilities system for the privilege of engaging in business within the City of Albany. Beginning on the first calendar month following the effective date of this Ordinance, such tax shall be paid. The tax shall be paid quarterly equal to the sum of three percent (3%) of gross local service revenues as defined in Order Number 43946 of the Public Utility Commissioner of the State of Oregon, said order being entered on November 6, 1967.

Section 3: PAYMENT.

The tax shall be payable quarter on or before the 15th day of the month following each three month period. A taxpayer, on or before the 15th day of each month following a three (3) month period shall make a return setting forth the gross local service revenues of the said business during the three (3) months covering the said report and transmit the same to the City Recorder of the City of Albany.

Section 4: BOOKS OF ACCOUNT.

Each taxpayer shall keep books of account which properly reflect the amount of gross local service receipts. The said books of account shall be open to inspection by the City Manager of the City of Albany for the purpose of verifying the required amount of tax to be paid.

Section 5: FAILURE TO MAKE RETURN.

If the taxpayer shall fail 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 correctness 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 tax due, the City Manager shall notify the taxpayer of his findings. If additional tax is due and not paid within ten (10) days of 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 pay the tax when due, or to make a false or fraudulent return or a statement or representation in or in connection with any such return, or to allow or abate

another in any attempt to evade payment of tax or fail to appear and testify in response to a subpoena issued pursuant 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 6: RIGHTS GRANTED UPON PAYMENT OF TAX.

Upon payment of taxes herein provided, the taxpayer shall be entitled to operate and maintain a gas utility system within the City of Albany and to install, maintain and operate on and under the streets, bridges and public places in the City, facilities for the transmission and distribution of gas to inhabitants and customers within and without the limits of the City of Albany and to transmit and distribute and to sell gas.

Section 7: INDEMNIFICATION.

The taxpayers shall indemnify and save harmless the City and its officers, agents and employees from any and all loss, cost and expense arising from damage to property and/or injury or death of persons due to any wrongful or negligent act or omission of the taxpayer, its agents or employees in the installation, maintenance and operation of the gas utilities system within the City.

Section 8: SUPPLYING MAPS UPON REQUEST.

The taxpayers shall maintain on file at an office in Oregon, maps and operational data pertaining to its operations within the City of Albany. The City may inspect the maps and data at any time during business hours and, upon request of the City, the taxpayer shall furnish the City, without charge, on a current basis, maps showing the location of all gas mains of the taxpayer within the City.

Section 9: VIOLATION.

Any person violating the provisions of this Ordinance, upon conviction thereof in the municipal court, shall 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 10: SEVERABILITY.

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

Section 11: EMERGENCY CLAUSE.

WHEREAS, the existing condition is such that the peace, health and safety of the people of the City of Albany, Oregon are involved, therefore, an emergency is hereby declared to exist and this Ordinance shall become effective upon its final passage by the Council and approval by the Mayor.

Passed by the Council: December 30, 1970

Approved by the Mayor: December 30, 1970

Russell W. Tripp
Mayor

Effective Date: December 30, 1970

ATTEST:

Ernest O. Lane
City Recorder