

**TITLE:** AN ORDINANCE PROVIDING FOR A TAX UPON THE PRIVILEGE OF ENGAGING IN THE CONSTRUCTION, MAINTENANCE AND OPERATION OF A WATER UTILITY SYSTEM WITHIN THE CITY OF ALBANY; PROVIDING FOR PENALTIES FOR VIOLATION AND ESTABLISHING AN EFFECTIVE DATE OF THIS ORDINANCE 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 the tax herein provided.
- c. WATER UTILITY BUSINESS, shall mean the business of selling, at wholesale or retail, water.
- d. GROSS OPERATING REVENUE, shall mean revenue accruing from the water utility business transacted within the corporate limits of the City of Albany. In case the taxpayer is a public utility, subject to regulation of 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, less the deductions and exclusions herein provided.
- e. GROSS REVENUE shall not include proceeds from the sale of bonds, mortgages or other evidence of indebtedness, securities or stock, sales at wholesale by one public utility to another, when the utility purchasing the services is not the ultimate consumer and revenues paid directly by the United States of America or its agencies and uncollectible revenues from customers within the City of Albany.

Section 2: AMOUNT OF TAX.

There is hereby imposed a quarterly occupational tax upon the water utility business 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 (3) % of gross operating revenue, provided, that the taxpayer may deduct from the license fee required hereunder the amount of any payments made or accrued to the City of Albany under the provisions of any franchise to construct, maintain and operate a water utility system within the City.

Section 3: TIME FOR PAYMENT.

The tax shall be payable quarterly on or before the 15th day of the month following each three (3) 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 operating revenue of the said business for the three (3) months covering the 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 reflects the amount of gross operating revenue. Such books shall be open to the inspection of the City Manager for purposes 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 of or representation in or in connection with any such return, or to allow or abet 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 to delay the city or any of its officers in carrying out the provisions of this Ordinance.

Section 6: LIENS.

The tax herein assessed shall be a lien upon 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 7: 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 ONE HUNDRED DOLLARS (\$100.00). Each day of continued violation shall be considered a separate offense and shall be subject to punishment as a separate offense.

Section 8: SEVERABILITY.


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

Section 9: EMERGENCY CLAUSE

Inasmuch as this Ordinance is necessary for the immediate preservation of the peace, health and safety of the City of Albany, Oregon, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect immediately upon its passage by the Council and approval by the Mayor.

Passed by the Council: March 31, 1971

Approved by the Mayor: March 31, 1971

  
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Mayor

Effective Date: March 31, 1971

ATTEST:

  
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City Recorder