

ORDINANCE 938

AN ORDINANCE relating to and providing for a tax for the privilege of engaging in the electric light and power business; defining offenses, and providing penalties for violation.

THE PEOPLE OF THE CITY OF LEBANON ORDAIN AS FOLLOWS:

Section 1. The provisions of this ordinance shall be deemed an exercise of the power of the City of Lebanon, Linn County, Oregon, to levy an occupational tax upon the electric light and power business for the privilege of engaging in such business within the corporate limits of the City of Lebanon.

Section 2. In construing the provisions of this ordinance, save when otherwise plainly declared or clearly apparent from the context, the following definitions shall be applied:

The word "person" whenever used in this ordinance shall be construed to mean "company", "corporation", "association", "co-partnership" or "individual".

The word "taxpayer" whenever used in this ordinance shall mean any person subject to the payment of the tax hereinafter provided for.

The term "electric light and power business" means the business of selling, at wholesale or retail, electric energy.

The term "gross operating revenue" means the revenue accruing from said electric light and power business transacted within the corporate limits of the City of Lebanon, and, in case taxpayer is a public utility subject to regulation by laws of the State of Oregon, shall be construed to mean the gross operating revenue required to be credited by the taxpayer to the taxpayer's operations within the City of Lebanon under the uniform system of accounts prescribed for such public service business by the regulatory body of the State of Oregon having jurisdiction. Unless otherwise provided in this ordinance, there shall be no deduction on account of the cost of the commodity furnished or sold, the cost of materials used, labor costs, interest, discount, delivery cost, taxes or other expenses.

Section 3. From and after the beginning of the first calendar month following the taking effect of this ordinance, there is hereby levied and there shall be collected from every person a tax for the act or privilege of engaging in the electric light and power business within the said City of Lebanon.

Such tax shall be levied and payable for calendar monthly periods, the tax for each such monthly period to be equal to one-twelfth of the basic amount found by multiplying the gross operating revenue of said business during the calendar year next preceding, less the deductions from gross operating revenue specified in Section 11 of this ordinance, by the rate of 3 per cent.

Section 4. The tax imposed hereunder shall be payable on or before the last day of each monthly period to the treasurer of the City of Lebanon. The taxpayer, on or before the last day of the first monthly period of 1956 during which this ordinance applies, and thereafter on or before the last day of February of each year, shall make out a return setting forth the gross operating revenue of the business for the next preceding whole calendar year, sign and transmit the same to the treasurer of the City of Lebanon, Oregon, together with a payment of the tax as computed in Section 3 for the monthly period then being completed.

Section 5. It shall be the duty of each taxpayer taxed upon taxpayer's gross operating revenue to keep and enter in a proper book or set of books or records an account which shall accurately reflect the amount of gross operating revenue, which account shall always be open to the inspection of the city treasurer or his authorized agent, and members of the council, and from which said officer or his agent may verify the return made by the taxpayer.

Section 6. If any taxpayer fails to make said return, or if the city treasurer is dissatisfied as to the correctness of the return of any taxpayer, said officer or his agent may enter the premises of said taxpayer at any reasonable time for the purpose of inspecting taxpayer's books or records of account to ascertain the amount of the tax or to determine the correctness of such statement as the case may be and may examine any person under oath, administered by said officer or his agent, touching the matters inquired into, may fix a time and place for an investigation of the correctness of the return, and may issue a subpoena to the taxpayer or any other person, to attend upon such investigation, and there testify under oath administered by said officer or his agent in regard to the matters inquired into, and by subpoena require taxpayer or any person to produce for inspection such books, records and papers as may be necessary.

Section 7. If the city treasurer, upon investigation, or upon checking returns, finds that the tax paid on any of them is more than the amount required of the taxpayer, he shall refund the amount overpaid by a warrant upon the general fund. If the city treasurer finds that the tax paid is less than required, he shall send a statement to the taxpayer showing the balance due, and taxpayer shall within ten (10) days pay the amount shown thereon.

Section 8. If any taxpayer fails to make said return or pay the tax therefor within ten (10) days after the same shall become due, the city treasurer shall ascertain the amount of the tax due and shall notify such taxpayer thereof, and such taxpayer shall be liable therefor in any suit or action by the city for collection thereof. The city treasurer shall also notify the city attorney, in writing, of the name of such delinquent taxpayer and the amount due from such taxpayer, and said officer shall, with the assistance of the city treasurer, collect the same by any appropriate means or by suit or action in the name of said city.

Section 9. It shall be unlawful for any person liable to tax hereunder to fail or refuse to make return or pay the tax when due, or for any person to make any false or fraudulent return or false statement or representation in, or in connection with, any such return or to allow or to abet another in any attempt to evade payment of the tax or fail to appear and testify in response to 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 10. 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 11. There shall be excepted and deducted from the total gross operating revenue upon which the tax is computed revenues derived from electric light and power business transacted in interstate or foreign commerce, with the United States of America or any department and agency thereof, the State of

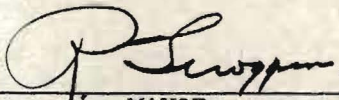
Oregon or any subdivision, department and agency thereof, the City of Lebanon, any school district or other municipal corporation and public body, and any amounts paid by the taxpayer to the United States, State of Oregon, or City of Lebanon as excise, occupational or business taxes levied or imposed upon the sale or distribution of property or services in said City of Lebanon.

Nothing in this ordinance shall be construed as requiring a license or the payment of a license fee or tax, or the doing of any act, which would constitute an unlawful burden or interference in violation of the constitution or the laws of the United States, or which would not be consistent with the constitution or laws of the State of Oregon.

Section 12. Any person violating or failing to comply with any of the provisions of this ordinance or any lawful rule or regulation adopted by the city treasurer pursuant thereto, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$100.00 or by imprisonment in the city jail not to exceed 10 days, or by both such fine and imprisonment.

Passed by the Council this 3rd day of APRIL, 1956.

Approved this 4th day of APRIL, 1956.



MAYOR

Attest:



Recorder