

ORDINANCE NO. 1204

AN ORDINANCE ESTABLISHING A PRIVILEGE TAX ON ELECTRIC OR NATURAL GAS SERVICES AND DECLARING AN EMERGENCY

The people of the City of Prineville ordain as follows:

1. The following definitions apply unless inconsistent with the context:

“Utility” means any person that provides electric or natural gas service to customers or themselves, within the boundaries of the City of Prineville by means of facilities permanently located within, under, or above any city rights of way, whether or not the person owns such facilities.

“City” means the City of Prineville.

“Person” means any individual, corporation, general or limited partnership, limited liability company, or any other legal entity.

2. City levies a privilege tax in the amount determined by resolution of the City Council for every Utility with operations within the boundaries of the City or within, under, or above the rights of way in the City, for a period of 30 days or more, without an authorized franchise from the City. The calculation of the privilege tax shall be subject to all applicable limitations imposed by federal or state law.

3. A privilege tax is for each 30 days or longer in duration that the Utility operates without a franchise, and is due no later than 30 days after the end of each calendar quarter in which the Utility operates without a franchise. Any past due payments under this Ordinance are subject to the interest rate as set by City resolution.

4. The Utility paying the privilege tax shall furnish to the City with each payment of such tax a statement showing the amount of gross revenue for the period covering the payment.

5. So long as a Utility is subject to the privilege tax, it shall keep books of financial accounts of the amount of electricity or natural gas provided to customers within the boundaries of the City and the amount of payments received by the Utility for providing such electricity or natural gas. The Utility shall produce the books of financial accounts for inspection by representatives of the City at any time during normal business hours.

6. The City shall have the right to have an audit made of Utilities’ books, and records used to determine the amount of electric or natural gas services to customers within the boundaries of the City and the amounts the Utility received for providing such electric or natural gas services. If the tax for the period of the audit is found to be incorrect to an extent of more than five percent (5%) over the tax paid by the Utility to City, the Utility shall pay for the audit; otherwise, the City shall pay for the audit. The Utility shall promptly pay to City any deficiency or City shall immediately issue a credit to the Utility for any overpayment, as the case may be, which is established by the audit. Any credit issued to the Utility shall be applied toward the next tax payment payable by the Utility to City.

If there are no further tax payments owed by the Utility to City, City shall promptly pay the Utility the amount of the overpayment.

7. Any Person who:

- a) owns improvements on real property located within the City, which improvements are exempt from real property taxes because they are included in the Prineville/Crook County Enterprise Zone; and
- b) except for testing of auxiliary or back up power source, produces more than two mega watts annually of electric power on or off site, which electric power is used at the improvements described in a) above; and
- c) is not subject to a franchise fee payable to the City for the transmission of such electricity;

shall pay to City a privilege tax equal to five percent (5%) of the current market rate that the Person would pay the public utility that provides electricity to such Person's improvements for the amount of power produced by such Person. Such tax shall be paid quarterly, not later than thirty (30) days after the end of calendar quarter in which the Person operates without a franchise.

8. If any section, sentence, paragraph, term, or provision of this Ordinance is determined to be unconstitutional, illegal or invalid by any court of common jurisdiction, such portion of this Ordinance shall be deemed a separate, distinct, and independent provision and such determination shall have no effect on the validity of any other section, sentence, paragraph, term, or provision hereof, all of which will remain in full force and effect.

9. This Ordinance being necessary for the immediate preservation of the public peace, health, and safety, an emergency is declared to exist and this Ordinance shall take effect on its passage.

PASSED by the City Council this _____ day of May, 2014.

Steve Uffelman, Council President

Attest: _____
Lisa Morgan/City Recorder