

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 731

An ordinance relating to the imposition of an excise tax on the provision of utility services; providing for administration and collection; dedicating the revenues to a special fund for library purposes; and related matters.

Multnomah County ordains as follows:

Section 1. Title

This ordinance shall be known as the Multnomah County Public Library Utility Excise Tax Ordinance.

Section 2. Definitions

For the purposes of this ordinance, unless the context requires otherwise, the terms below are defined as follows:

A. Administrator: the county, city or other governmental agency which administers this ordinance.

08/20/92:1

1 B. Board: Board of County Commissioners of Multnomah County,  
2 Oregon.

3  
4 C. Gross revenue: All revenues from the sale of utility  
5 services and from the use, rental or lease of the operating  
6 facilities providing these services derived from within the  
7 boundaries of Multnomah County, after adjustment for net write-off  
8 of uncollectible accounts. Gross revenue does not include:

9  
10 1. Proceeds from the sale of bonds, mortgages, or other  
11 evidences of indebtedness, securities or stocks;

12  
13 2. Proceeds from sales at wholesale when the purchaser is not  
14 the ultimate consumer;

15  
16 3. Proceeds from transmission or transportation services;

17  
18 4. Revenues paid directly by the United States of America or  
19 its agencies;

20  
21 5. Revenues paid directly by municipalities;

22  
23  
24  
25  
26  
08/27/92:1

1 6. Revenues paid directly by families, family units,  
2 unrelated individuals and/or households below the poverty  
3 guidelines established annually by the Administrator, as set  
4 forth in Section 7 of this ordinance;

5  
6 7. Revenues from the sale of electrical energy not consumed  
7 within Multnomah County; and

8  
9 8. Revenues from the lease of residential space heaters.

10  
11 D. Library: the public library system of Multnomah County,  
12 Oregon.

13  
14 E. Municipality: Any city, political subdivision, municipal  
15 corporation, or district organized and existing pursuant to the  
16 laws of the State of Oregon, including school districts.

17  
18 F. Person: Individuals, joint ventures, partnerships,  
19 corporations, their officers, employees, agents, assignees,  
20 trustees or receivers, or any other legal entity whatsoever, but  
21 not including any municipality, state, or federal agency.

22  
23 G. Utility Service: All electrical energy, all natural gas,  
24 and petroleum products used for heating.

25  
26  
08/20/92:1

1           Section 3. Interpretation

2  
3           For the purpose of this ordinance, words in the singular  
4 number include the plural, the word "shall" is mandatory and not  
5 directory, and the term "this ordinance" shall be deemed to  
6 include all amendments hereafter made.

7  
8           Section 4. Administration

9  
10          In order to carry out the duties imposed by this ordinance,  
11 the Administrator

12  
13          A. May recoup from the library all reasonable costs of the  
14 administration of this ordinance; and

15  
16          B. Shall draft for approval by the Board the rules and  
17 regulations necessary for the administration of this ordinance,  
18 including but not limited to, a procedure to implement the poverty  
19 guidelines and an administrative appeal procedure; and

20  
21          C. Shall have the authority to do the following acts, which  
22 enumeration shall not be deemed to be exclusive, namely:  
23 administer oaths; audit records; certify to all official acts;  
24 subpoena and require attendance of witnesses at hearings; require  
25 the production of relevant documents; swear witnesses; and take  
26 testimony of any person by deposition.

08/20/92:1

1           Section 5. Contracts

2  
3           The Board may contract with a city or other governmental  
4 agency for the administration of all, or any portion, of this  
5 ordinance.

6  
7           Section 6. Imposition of Tax and Dedication of Revenues

8  
9           A. Commencing on the effective date of this ordinance, an  
10 excise tax is imposed upon every person providing a utility  
11 service within the boundaries of Multnomah County, at the rate of  
12 two percent (2%) of the gross revenue. Revenue derived from the  
13 imposition of this tax shall be placed in a special fund and  
14 dedicated solely to library purposes, including but not limited  
15 to, the cost of administering this ordinance, ordinary capital  
16 needs and operational services.

17  
18           B. Commencing on July 1, 1993, in addition to the tax imposed  
19 under subsection (A) of this section, an excise tax is imposed  
20 upon every person providing a utility service within the  
21 boundaries of Multnomah County, at the rate of two percent (2%) of  
22 the gross revenue. Revenue derived from the imposition of this  
23 tax shall be placed in the same special fund and dedicated solely  
24 to the same library purposes as set forth in subsection (A).

25  
26  
08/20/92:1

1           Section 7. Poverty Guidelines

2  
3           A. Within thirty (30) days of the annual publication of the  
4 federal poverty guidelines, the Administrator shall draft poverty  
5 guidelines for approval by the Board and shall thereafter  
6 distribute them to the persons subject to this tax.

7  
8           B. The Administrator and the Board may use the federal  
9 poverty guidelines promulgated by the Office of the Secretary of  
10 the Department of Health and Human Services, may use another  
11 agency's adaptation of the guidelines, or may create its own  
12 adaptation of the guidelines.

13  
14           C. Until the Administrator's first determination in 1993, the  
15 1992 federal poverty guidelines promulgated by the Office of the  
16 Secretary of the Department of Health and Human Services pursuant  
17 to 42 USC 9902(2) shall apply:

18  
19  
20  
21  
22  
23  
24  
25  
26  
08/20/92:1

	<u>Size of Family Unit</u>	<u>Poverty Guideline</u>
1		
2		
3	1	\$ 6,810
4	2	\$ 9,190
5	3	\$11,570
6	4	\$13,950
7	5	\$16,330
8	6	\$18,710
9	7	\$21,090
10	8	\$23,470

11

12 Each additional member, add \$2,380.

13

14 D. Until the Administrator's first determination in 1993, the

15 definitions of family, family unit, household, income, and

16 unrelated individual set forth in the Federal Register, February

17 14, 1992, pp. 5456-5457, shall apply.

18

19 Section 8. Collection of Utility Tax Prohibited

20

21 A. Utility providers shall not include the United States of

22 America or its agencies, municipalities, or families, family

23 units, households and/or unrelated individuals below the poverty

24 guidelines in any pass-through of this tax.

25

26

08/20/92:1

1           B. The Administrator shall draft for approval by the Board a  
2 procedure by which the persons subject to this tax shall be  
3 reimbursed for the reasonable cost of implementing the poverty  
4 guidelines.

5  
6           Section 9. Returns and Remittance

7  
8           A. Each person providing a utility service shall, on or  
9 before the twentieth (20th) day of each month, file a verified  
10 return with the Administrator. The return shall be on the forms  
11 supplied or in the manner prescribed and shall state the gross  
12 revenue and other information required to determine the tax to be  
13 paid for the preceding one month period.

14  
15           B. Each person shall, at the time of filing the verified  
16 return, remit to the Administrator the amount of the tax.

17  
18           C. If any person required to file the first return and pay  
19 the tax imposed therein is unable, despite diligent effort, timely  
20 to submit a verified return, the person shall submit a return as  
21 accurate as possible, based on good faith estimates, and shall pay  
22 the tax accordingly. Such return may be amended and additional  
23 tax paid thereon, at the next required return filing date;  
24 thereafter, claims for refunds and demands for deficiency payments  
25 shall be made as provided in Section 10.  
26

08/20/92:1

1           Section 10. Return Review, Deficiencies and Refunds

2  
3           A.    The Administrator shall examine all returns filed and  
4 shall verify the accuracy thereof and the correct amount of the  
5 tax imposed by this ordinance.  If the tax imposed is greater than  
6 the amount remitted, the Administrator shall mail a notice of the  
7 deficiency to the person filing the return.  The amount of the  
8 deficiency shall be paid, unless hearing is requested, within  
9 thirty (30) days from the date of the notice.  If the tax imposed  
10 is less than the amount remitted, the Administrator shall give  
11 notice and refund the overpayment to the person who made it.  
12

13           B.    A claim for a refund shall be made by giving written  
14 notice to the Administrator within sixty (60) days from the date  
15 of filing the return upon which the claim is based.  The right to  
16 claim a refund is thereafter waived.  No interest shall be paid on  
17 any refund.  
18

19           1.    The Administrator may deny the full amount claimed, refund  
20 the full amount claimed, or allow only part of the amount  
21 claimed.  The Administrator shall give notice of the  
22 determination.  
23

24           2.    Claims for refunds are not assignable.  
25  
26

08/20/92:1

1           Section 11. Delinquent Taxes and Interest

2  
3           All taxes which are not remitted on the dates specified are  
4 delinquent, except as provided in Section 9(C). Delinquent taxes  
5 shall bear interest at the rate of one percent (1%) per month, or  
6 fraction thereof, until paid.

7  
8           Section 12. Fraudulent Returns

9  
10          If a false or fraudulent return is filed with the intent to  
11 evade or reduce the tax imposed by this ordinance, or with  
12 intentional disregard of this ordinance but without intent to  
13 defraud, there shall be added the amount of interest imposed by  
14 Section 11 of this ordinance plus an amount equal to fifteen  
15 percent (15%) of the total amount of the deficiency, which  
16 interest and penalty shall become due and payable within ten (10)  
17 days after notice and demand by the Administrator.

18  
19          Section 13. Tax As Debt

20  
21          The tax imposed by this ordinance and any interest and  
22 penalties thereon shall be a debt due and owing to Multnomah  
23 County and may be collected by civil action in the name of  
24 Multnomah County.

25  
26  
08/20/92:1

1           Section 14.   Records  
2

3           Each person shall keep and preserve, for a period of three (3)  
4 years from the date required for filing the return, such records,  
5 books and accounts as may be necessary to determine the amount of  
6 gross revenues upon which this tax is imposed. All such records,  
7 books and accounts shall be open for examination by the  
8 Administrator at any reasonable time and at any reasonable place  
9 within the county.  
10

11           Section 15.   Penalties  
12

13           A. It shall be a violation of this ordinance and unlawful for  
14 any person to refuse to make any return required by this  
15 ordinance, to make any false or fraudulent return, or to fail or  
16 refuse to make payment to the Administrator of any tax due under  
17 this ordinance, or in any manner to evade the collection and  
18 payment of the tax, or any part thereof, imposed by this  
19 ordinance, or to aid or abet other persons in any attempt to evade  
20 the collection and payment of the tax imposed by this ordinance.  
21 Such a violation shall be deemed a county offense and shall be  
22 punishable, upon conviction, by a fine of not more than one  
23 thousand dollars (\$1000) or by imprisonment in the county jail for  
24 not more than six (6) months, or by both such fine and  
25 imprisonment.  
26

08/20/92:1

1 B. Any officer, director, partner, or other individual having  
2 direction or control over any person violating this ordinance  
3 shall be subject to the fine and imprisonment provided by this  
4 Section.

5  
6 C. Each twenty-four (24) hour continuance of any violation  
7 shall constitute a distinct and separate offence.

8  
9 Section 16. Writ of Review

10  
11 Review of any action of the Administrator taken pursuant to  
12 this ordinance or of any rules and regulations promulgated by the  
13 Administrator shall be by writ of review.

14  
15 Section 17. Separability

16  
17 If any section, subsection, sentence, clause, phrase or  
18 portion of this ordinance is for any reason held invalid or  
19 unconstitutional by a court of competent jurisdiction, such  
20

21  
22  
23  
24  
25  
26  
08/20/92:1

1 portion shall be deemed a separate, distinct and independent  
2 provision, and such holding shall not affect the validity of the  
3 remaining portions of this ordinance.

4  
5 Section 19. Adoption

6  
7 Adopted this 27th day of August, 1992, being the date  
8 of its 2nd reading before the Board of County Commissioners of  
9 Multnomah County, Oregon.



10  
11  
12  
13 BY Gladys McCoy  
14 GLADYS MCCOY, CHAIR  
15 MULTNOMAH COUNTY, OREGON

16 REVIEWED:

17 LAURENCE KRESSEL, COUNTY COUNSEL  
18 MULTNOMAH COUNTY, OREGON

19 By John L. DuBay  
20 John L. DuBay  
21 Chief Assistant County Counsel

22 I:\FILES\UTILTAXO.ORD\st

23  
24  
25  
26  
08/20/92:1