

City of St. Helens  
**ORDINANCE NO. 3237**

AN ORDINANCE AMENDING ST. HELENS MUNICIPAL  
CODE CHAPTER 3.12 TO MODIFY THE UTILITY  
PRIVILEGE TAX LEVIED ON UTILITIES OPERATING IN  
THE CITY WITHOUT A FRANCHISE

**WHEREAS**, St. Helens Municipal Code Chapter 3.12 levies a privilege tax on utilities utilizing the streets and rights-of-way within the city of St. Helens ("City") if the utility operates without a franchise, and

**WHEREAS**, the City's current definition of "utility" may lead to some ambiguity as to which businesses are required to pay the privilege tax, and

**WHEREAS**, it is the City's intent that all utilities supplying services by utilizing city streets or rights-of-way pay the utility privilege tax, whether or not the business owns the transmission facilities, if the utility operates without a franchise:

**NOW THEREFORE, THE CITY OF ST. HELENS, OREGON ORDAINS AS FOLLOWS:**

**Section 1.** Section 3.12.020 of the St. Helens Municipal Code is amended to read as follows:

**3.12.020 Definitions.**

(1) Gross Revenue. "Gross revenue" as used in this chapter shall be deemed to include any revenue earned within the city from the sale of utility services after adjustment for the net write-off of uncollectible accounts computed on the average annual rate for the entire utility, excluding sales of utility services by the utility to any other utility when the utility purchasing such utility services is not the ultimate consumer. Gross revenues do not include proceeds from the sale of bonds, mortgages, or other evidence of indebtedness, securities, or stocks and do not include revenue paid directly by the United States of America or its agencies.

(2) Utility. As used in this chapter, the term "utility" includes the business of supplying electrical energy, gas, communications, and other services through or associated with telephone or telegraph by means of facilities utilizing and/or occupying rights-of-way, public grounds, or public places within the corporate limits of the City, whether or not the business owns the facilities.

(3) Rights-of-Way. As used in this chapter, the term "rights-of-way" includes the present and future streets, viaducts, elevated roadways, alleys, public highways and avenues in the City, including the subsurface and air space over or under these areas and including rights-of-way held in fee, or by virtue of an easement or dedication.

**Section 2.** Section 3.12.030 of the St. Helens Municipal Code is amended to read as follows:

**3.12.030 Privilege tax.**

Any utility, using and/or occupying and continuing to use and/or occupy the whole or any part of the rights-of-way, public grounds, or public places within the corporate limits of the city without a franchise shall pay a privilege tax for the use and occupancy of the whole or any part of the rights-of-way, public grounds, or public places within the corporate limits of the city. The privilege tax shall be in an amount set by resolution of the City Council. The privilege tax shall be computed, as applicable, as of the later of: 1) April 1, 2019; 2) the commencement of activities subject to this Section 3.12.030, or 3) upon the expiration of any franchise under which such utility might formerly have operated and shall be due and payable as hereinafter provided so long as the utility continues to operate within the city and to use and/or occupy the whole or any part of the rights-of-way, public grounds, or public places without a franchise. Except as set out in SHMC 3.12.040, when a franchise tax herein required and the franchise becomes effective, then the privilege tax shall cease to apply from the effective date of the franchise. But the franchise holder shall pay the proportionate earned amount of the privilege tax for the period. The privilege tax shall in such cases become immediately due and payable. In the event that any such utility shall operate under a permit granted by the City Council and accepted in writing by it, there shall be no tax applicable under this section.

**Section 3.** Effective Date. The above amendments to Chapter 3.12 shall take effect on April 1, 2019.

**APPROVED AND ADOPTED** this 1<sup>st</sup> day of May, 2019 by the following vote:

Ayes: Locke, Carlson, Morten, Topaz, Scholl

Nays: None

  
Rick Scholl, Mayor

ATTEST:

  
Kathy Payne, City Recorder