

ORDINANCE NO. 3731

TITLE: AN ORDINANCE ESTABLISHING A PUBLIC OFF-STREET PARKING ASSESSMENT DISTRICT, IMPOSING A BUSINESS LICENSE TO RAISE REVENUE FOR CAPITAL INVESTMENTS AND THE RETIREMENT OF OUTSTANDING OFF-STREET PARKING FACILITIES BONDS BY TAXING ALL BUSINESSES WITHIN THE PARKING DISTRICT AND TO FURTHER PROVIDE FUNDS FOR THE OPERATION AND MAINTENANCE OF OFF-STREET PARKING FACILITIES AND PROVIDING FOR THE DISCRETIONARY REMOVAL OF CERTAIN ON-STREET PARKING METERS WITHIN THE OFF-STREET PARKING ASSESSMENT DISTRICT AND DECLARING AN EMERGENCY.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: PURPOSE AND SCOPE.

Pursuant to the authority conferred by the laws of the state of Oregon and the Charter of the city of Albany, it is intended to create a public off-street parking assessment district and impose an occupation tax for revenue purposes only upon business activity situated within the public off-street parking assessment district wherein free public off-street parking facilities are provided for persons operating vehicles within the area, because revenues are necessary for the capital improvement, investment in and the operation and maintenance of off-street parking facilities and the retirement of outstanding off-street parking facilities bonds. Notwithstanding any other section of the Albany Code or any Ordinances of the city of Albany heretofore enacted, the acceptance by the city of any amounts due hereunder shall not be conditioned upon compliance with any other law or Ordinance, regulatory or otherwise, nor such acceptance be deemed a waiver of any other law or Ordinance, regularatory or otherwise. This being a revenue measure enacted to meet a local need, it is the intent of the City Council that this tax shall apply to all business and professional activities similarly situated, without regard to any state law purporting to exempt any particular occupation or occupations from city taxes. The City Council declares that this is a local municipal revenue measure of local concern only and the exercise of the city's power to levy this tax is not subject to any attempted limitation imposed by any legislative body other than the City Council. It is contemplated the tax hereunder is necessary to operate a public parking facility on a sound fiscal basis; to pay outstanding principal and interest on public parking facilities bonds and to replace the funds received from on-street parking meters now existing; that if any other resources are available or the need for funds otherwise decreases, this tax will be decreased or eliminated.

Section 2: ESTABLISHMENT OF A DOWNTOWN OFF-STREET PARKING DISTRICT.

There is hereby created a downtown off-street parking district to be bounded as follows: The north line shall be the center-line of the Willamette River; the south line of the district shall be the

centerline of Fifth Avenue; the west line of the district shall be the west line of Calapooia Street; the east line shall be the centerline of Railroad Street.

Section 3: DEFINITIONS.

The following terms as used in this Ordinance shall mean:

- a) Business. Any regular activity pursued for profit or gain and occupying premises within an off-street parking district. Such activities may include the furnishing of services or other sale of goods, wares or merchandise, or a combination of either, and shall include all gainful pursuits, whether they are termed "professional" or otherwise, and whether they are otherwise regulated or taxed.
- b) Premises. Any fixed or definite location.
- c) Off-street Parking District or "District." An off-street parking assessment district wherein the major part of every municipal off-street parking facility is available to the public for use without charge; provided however, that a fine imposed for violating such overtime parking as the City Council or the City Parking Commission may deem reasonable and necessary shall not be deemed a charge for the use of said facility.
- d) Doing Or Transacting Business. Any act or series of acts performed in the course or pursuit of a business activity.

Section 4: TAX TO BE PAID.

No person, for himself or for his agent or employ or another, shall do or transact business in or as a part of a business activity situated within an off-street parking district, if the business is such as defined in Section 9 hereof, unless the annual tax for the operation of such business at said premises has been paid as required in this Ordinance.

Section 5: POSTING OF LICENSE.

- a) Except as provided in subsection (b) of this section, at all times after the issuance of the license, the licensee shall cause it to be posted in a conspicuous place upon the business premises, available for inspection by the public and by employees and prospective

employees of the business.

- b) When the licensee has no office, business premises or other established place of business within the city, the license shall be in the possession of the representative of the business present within the city at all times during which business is being transacted by any employee or representative within the city.

Section 6: MULTIPLE BUSINESS OR PREMISES.

- a) If two (2) or more related businesses are carried on in the same premises by the same person, it shall be sufficient if the business tax is paid in the name of the business to which the premises are primarily appropriated and based upon the total number of individuals on the whole premises; provided, however, that any business actively leased, under concession to, or owned wholly or in part by a different person or persons on the same premises shall be separately taxed. In determining whether different activities on the same premises are related to the primary use within the meaning of this subsection, normal and ordinary customs and usages of business shall be considered.

Section 7: APPLICATIONS.

- a) Applications for business licenses shall be submitted on forms to be provided by the City Recorder. Every application shall be signed by the owner as duly authorized agent and shall contain the following information:
 - (1) Name of the officers of the corporation or name of person or persons owning business;
 - (2) Name of the corporation or assumed business name, if any;
 - (3) Address of the business premises, or business mailing address, if different;
 - (4) Nature of business;
 - (5) Number of owners, managers or employees who are working with or for the business within the district as of the date of the application;
 - (6) Number of seasonal employees as of the date of application, and length of employment season applicable thereto;

- (7) Number of part time employees as of the date of the application, and the number of hours per week each part time employee works;
- (8) Where the business includes activities classified in two or more categories, the primary or prominent activity.

- b) License fee shall be computed on the basis of information contained in the application, and no person shall knowingly sign or submit a business license application containing false information.

Section 8: CONTENTS OF LICENSE

Licenses shall be issued to the applicant in the name of business to be licensed and shall designate the nature of the business, the address, if any, of the business premises, and the date of issuance.

Section 9: CLASSIFICATIONS

- (a) Subsection (b) of this section contains a list of particular business activities classified in relation to the general classifications contained in Section 9. The types of business particularly named in the list shall be deemed classified as therein indicated; provided, that the said list is not a complete, final or exclusive summary of all businesses to be taxed or of all businesses within the classifications indicated, and each classification shall be deemed to include, in addition to the businesses specified, such allied and like occupations, trades, professions and other business activities as in the normal customs and usages of business would be considered to be within that classification; provided, that where any business not specifically listed herein is licensed for revenue by any section other than Sections 1 to 14, then Sections 1 to 14 shall not apply thereto. The classifications of a business not specified in this list but subject to Sections 1 to 14 shall be determined by the City Recorder.
- b) An illustrative schedule of classifications of particular business activities classified in relation to the general classifications contained in Section 9 is as follows:

SERVICES Class 1

Accountants
Architects
Attorneys

Chiropractors
Chiropodists
Dentists
Engineers and Surveyors
Municipal Corporations
Optometrists
Physicians and Surgeons
Veterinaries

Class 2

Banks
Brokers
Credit service - Collection Agency
Insurance companies
Investors - securities
Loan companies
Real estate agencies
Title Insurance and abstracts

Class 3

Advertising Agency
Agate Shop
Artists, Commercial
Auto Body and paint shops
Auto cleaning
Barber Shops
Beauty shops
Bicycle repair shops
Bookkeeping - Tax Service
Business College
Business Service
Business machine repairs and service
Cleaning Establishments
Contractors
Dancing Schools
Electrical Appliance repairs and service
Employment Agency
Fishing Tackle
Floor Coverings and sanding
Foundation Garments
Furnace - chimney cleaning
Garages - auto repairs and service
Hydraulic Jack Service
Insulation
Janitor service
Kindergartens
Laboratories, testing
Landscaping
Laundries
Lawn building
Linen & Towel Supply

Machine and repair shops
Massage - Health Studios
Mortuaries - Funeral Homes
Motor repairs
Music Studios
Oil Heating Service
Pest Control
Photographers
Piano Tuning
Public Relations
Public Stenographers
Pump Service - water softeners
Radiator Service and repair
Radio Service and repair
Refrigeration Service and repair
Rental Service
Rug and Upholstery Cleaning
Safe and Lock Service - Key Shop
Saws - service and repair
Septic Tank Service - Sewer lines
Shoe repairs
Sweeping service - Parking lots, etc.
Tailoring - alterations
Television Service and Repairs
Termite Control
Tires - service and repairs
Travel Service
Tree Service
Upholstering
Watch Repairs
Weather Stripping
Well Drilling
Welding

Class 4

Ambulance Service
Bus Lines
Car Rentals
Delivery Service
Parking Lots
Radio Broadcasting Stations
Telegraph Company
Television Station
Trailer Convoy
Truck Service
Motor Freight
Utility Companies

Class 5

Apartments
Convalescent homes
Hotels

Motels
Rentals - Buildings
Trailer Courts

PRODUCTS Class 6

Bakers
Beverages
Cafes and Restaurants
Cold Storage and Food Lockers
Confectioners
Dairy Products
Drive-ins
Fish and Sea Foods
Fruit Growers and Packers
Fruit and Vegetable Stands
Grocery Stores
Health Foods
Herbs
Lounges
Meat Markets
Meat Packers
Pastry
Produce Companies
Taverns
Vending Machines - candy and cigarettres

Class 7

Awnings, auto seat covers, etc.
Dental laboratory
Dental supply
Department stores
Drapery Shop
Drug Stores
Dry Goods
Furrier
Gloves
Jewelry
Ladies' ready-to-wear
Mail Order Sales
Men's Clothing
Optical Companies
Paper Products
Second Hand Stores
Shoes
Shopping Service
Stamps and Seals
Sundry Company
Surplus Equipment
Variety Store
Venition Blinds

Class 8

Aircraft Sales and Service
Auto Sales and Service
Diesel Sales
Equipment and Machinery
Implement Dealers
Trailer Sales and Manufacturing
Used Car Sales

Class 9

Acetylene
Air Conditioning
Alarms, Automatic
Art Supplies
Aviation - Charter Trips, Instruction, Crop
Dusting, etc.
Auto Accessories, Parts
Barbecue Supplies
Blacksmith
Boat Builders
Box and Crate Mfg.
Builders Supply
Cabinet Works
Chain Saws
Chain Saw Sales
Cycle Shop
Dairy Supplies
Electrical Appliance Stores
Electronic Equipment
Elevator Company
Engraving
Feed and Seed Stores
Fencing
Fire Fighter Equipment
Fuel Companies - Furnaces
Furniture
Glass Companies
Gun Shops
Hardware
Hearing Aids
Heating Equipment
Helicopter Services
Housewares
Janitor Supplies
Jobbers
Junk
Ladder Works
Logging Supplies
Lumber
Metal Works

Milling
Monuments
Musical Instruments
Office Machines, Supplies
Oil Companies
Orthopedic Appliances
Paint
Piano Store
Pipe
Plumbing Supplies
Printing Companies
Pump Company
Radio Supply
Restaurant Supplies
Safes
Service Stations
Sewing Machines
Signs
Sprinkling Systems
Sporting Goods
Steel
Swimming Pools
Trading Stamps
Vacuum Cleaners
Wood

Class 10

Book Stores
Camera Shop
Ceramic Studio
Florists
Gift Shops
Leather Goods
News Agencies
Novelties
Nurseries - Flower Shops
Record Sales
Saddlery
Stones and Minerals
Toys

Section 10: SCHEDULE AND CREDIT

(a) The annual tax for any business for any business which is subject to Sections 1 to 11 shall be based upon the number of persons, whether as owners, managers or employees, who are working with or for the business on a full-time, part-time, or seasonal basis within the district, and shall be computed in accordance with the following schedule:

A. SERVICES CATEGORY (Class 1, 2,3,4,5,8)

<u>No. of Persons</u>	<u>Annual Rate</u>
1	\$ 19.20
2	25.60
3	44.80
4	64.00
5	83.20
6	102.40
7	121.60
8	140.80
9	160.00
10	179.20
11	198.40
12	217.60
13	236.80
14	256.00
15	275.20
16	294.40
17	313.60
18	332.80
19	352.00
20	371.20
21-30	448.00
31-40	512.00
41-50	576.00
51-60	640.00
61-70	640.00

B. PRODUCTS CATEGORY (Class 6,7.9, 10)

<u>No. of Persons</u>	<u>Annual Rate</u>
1	\$ 64.00
2	192.00
3	256.00
4	320.00
5	384.00
6	448.00
7	512.00
8	576.00
9	640.00
10	704.00
11	768.00
12	832.00
13	896.00
14	960.00
15	1,024.00
16	1,152.00
17	1,280.00
18	1,408.00
19	1,536.00
20	1,664.00
21	1,920.00

22	2,176.00
23	2,304.00
24	2,560.00
25-34	2,944.00
35-44	3,328.00
45-54	3,712.00
55-64	3,840.00

C. RESTAURANTS, TAVERNS & WHOLESALERS CATEGORY

<u>No. of Persons</u>	<u>Annual Rate</u>
1	\$ 32.00
2	96.00
3	128.00
4	160.00
5	192.00
6	224.00
7	256.00
8	288.00
9	320.00
10	352.00
11	384.00
12	416.00
13	448.00
14	480.00
15	512.00
16	576.00
17	640.00
18	704.00
19	768.00
20	832.00
21	960.00
22	1,088.00
23	1,152.00
24	1,280.00
25-34	1,472.00
35-44	1,664.00
45-54	1,856.00
55-64	1,920.00

D. THEATRE CATEGORY

64¢ per seat based on average daily usage

b) The annual tax for an apartment house shall be \$5.00 for each dwelling unit occupied or available for occupancy; provided, however, that an owner-occupied dwelling unit shall not be included in the computation.

c) The computation for determining the number of persons, whether as owners, managers or employees, who are working with or for the business within the district shall be as follows:

(1) A person whether as owner, manager or employee, shall be considered as full time if he is regularly employed to work not less than 30 hours per week. Such owners, managers, or employees shall be considered for the purposes of computing this tax as one person.

(2) A person shall be considered as a part-time person, whether as owners, managers, or employees, if he is regularly employed to work less than 30 hour per week. If the business has one part-time person,

such person shall be considered the same as a full-time person.

If a business has more than one part-time person, the hours per week for which all such part-time persons are hired shall be added together and such total shall be divided by 40 to arrive at the number of equivalent full-time persons to be taken into consideration, but if the total hours are not evenly divisible by 40, the excess shall be counted as one additional person if such excess is at least 30 hours.

(3) A seasonal person shall mean a person employed for a continuous period of not more than 3 months in contemplation of a season of activity which reoccurs annually in the normal course of such business or of the like businesses. The number of such seasonal persons to be taken into account for the purposes of computing the tax shall be that portion of the total number of seasonal persons which that number of whole months in the employment season bear to the total number of months in the license. The employment season shall mean that period of time, to the nearest 15 days, for which the business, or a like business would normally expect to employ the seasonal person, taking into consideration past experiences, production capacity, material resources and marketing conditions in the license. For the purpose of determining the number of whole months in an employment season, a month shall consist of 30 consecutive days.

d) Every business which furnishes off-street parking shall be allowed a credit against this tax, which credit shall be in the sum of \$25.00 for each space furnished, except that in no case shall the total credits minus the amount of tax in Section 10 be less than the amount for that business with one person employed. In order to qualify for a credit, the parking must be provided by premises, owned, or leased for not less than the tax year, by the business, must be sustained within the district, and must be available during the business hours for patrons of the business, to park, and leave their motor vehicles for

periods of time not less than two (2) hours for the purpose of conducting business in the area. For purposes hereof, motor vehicles space shall not be less than 170 square feet each and so arranged as to be reasonable accessible.

Section 11: EVIDENCE OF DOING BUSINESS

In the trial of any alleged violation of Sections 1 to 10 evidence that the defendant or defendant's employer made a public representation, by way of advertisements by newspaper, radio, television, or other similar media or by signs, notices, or lettering conspicuously displayed for public view, that such business or occupation was being conducted, expressly or impliedly offering to sell goods or services in the course of such business to the public or any segment thereof, shall constitute prima facie evidence that the defendant was transacting the business suggested by such public representation, within the district on the date or dates during which such representations were made.

Section 12: RETURNS

Returns shall be submitted prior to the beginning of the tax year and shall be signed by any owner or manager of the business activity. The returns shall be submitted on forms prepared by the City Recorder and shall specify the corporate name or the name or assumed business name (if any) under which the business is conducted, the nature and class of the business, the name of the corporate officers, or the owner of the business, the location, and the number of persons, whether as owners, managers or employees working for the business in the district. Such returns shall be confidential and the contents thereof shall not be revealed except for purposes of administering or enforcing this ordinance. It shall be unlawful for any person to knowingly submit a return containing a material false representation.

Section 13: RETURNS AND PAYMENT

Upon receipt of a return duly signed and executed as prescribed in Section _____, together with the payment of the required tax, the City Recorder shall issue a license showing the name and nature of the business, the location of the business premises, the name of the corporate officers or business owners, and the period for which the tax is paid. The tax year shall be from August 1 to July 31, and the amount due for each such tax year shall be set forth in Section _____. A business starting within the district during the tax year shall pay that part of the tax for said year which is proportional to the unexpired year, prorated to the first day of the calendar month within which the business was commenced. The incidence of the tax is on the particular business activity and not to the premises, and if the business moves from the original location to another location within the district, its tax for the new location shall be deemed paid.

Section 14: PROCEEDINGS OF TAX

All money collected under Section 1 to 12 shall be for capital improvement and investment in and for the operation and maintenance of off-street parking facilities in the assessment district in which the tax paying businesses are situated, and for payment of off-street parking bonds and establishment of off-street parking lots and and for policing of parking regulations within the assessment district.

Section 15: PENALTIES

(a) Any person violating any provisions of Sections 1 to 17 shall, upon conviction thereof, be punished as provided in Section _____ of the Albany Municipal Code.

(b) Every full business day during which any business activity continues to be conducted in violation of Section 1 to 17 shall be deemed a separate offense and every day during which any person conducts or transacts business in the course of an activity for which the tax herein required has not been paid shall be deemed a separate offense by such person.

(c) The remedies specified in subsection (2) shall not be deemed exclusive and, at the option of the city, amounts due and payable hereunder by way of taxes may be collected as prescribed by statute from the owner or owners of the business involved, by action at law in any court of competent jurisdiction in the state; and interest shall accrue on unpaid taxes at the rate of six (6) percent per annum from the date thereof.

Section 16:

That parking meters for on-street parking will be removed within the area of the parking district, except that the City Council shall have the right to establish parking meters for short term parking and loading zones in such areas as they shall designate. The term of parking in any instance as established by a parking meter shall not exceed 24 minutes.

Section 17: 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 passage by the Council and approval by the Mayor.

Passed by the Council: August 31, 1973

Approved by the Mayor: August 31, 1973

Effective Date: August 31, 1973



Mayor

ATTEST:


City Recorder