# Chapter 3.50
# Privilege Tax Upon Utilities

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## 3.50.010 Privilege Tax Imposed.

A privilege tax of five percent is imposed on the gross revenues of any utility that has equipment in rights-of-way within the City. The amount of any privilege tax due from a utility will be reduced by any franchise fee received by the City from that utility.

## 3.50.020 Definitions.

As used in this Chapter, the following terms mean:

(1) Equipment is any tangible component, whether referred to singly or collectively, installed, maintained, or operated by a utility.

(2) Gross revenues are revenues earned within the boundaries of the city less net uncollectible amounts. Gross revenues may be specifically limited by state or federal law.

(3) Rights-of-way are the space in, upon, above, along, across, over or under the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, sidewalks, bicycle lanes, and places used or intended to be used by the general public for travel.

(4) Utility is a utility as defined in ORS 366.332.

## 3.50.030 Payment Dates.

The privilege tax imposed in this Chapter is due quarterly on or before the forty-fifth day after the end of the preceding quarter (May 15, August 15, November 15, and February 15). The privilege tax must be paid to the City on or before the due date for each quarter and must be accompanied by a written report. The written report must be verified and executed by an officer or other authorized representative of the utility. The report must contain an accurate statement of the gross revenues from exchange access services for the period covered by the payment.

3.50.040 Interest on late payments.

If the privilege tax is not paid on or before the due date, nine percent interest must be paid on the tax from the date due to the date on which payment is received by the City, compounded daily.

3.50.050 Audits.

(1) The City has the right to conduct or have conducted an audit of gross revenues as defined in this Chapter to determine if the tax required by this Chapter has been paid by a utility.

(2) Upon receipt of a written request, a utility must provide the City copies of documents requested by the City that are necessary to conduct an audit. If the utility believes the requested documents contain confidential information that is not subject to public disclosure, the utility may mark the documents as confidential and exempt from public disclosure. The City will not disclose such documents to third parties unless such disclosure is required to comply with state law.

(3) After an audit any undisputed under tax payment due the City or over tax payment due the utility is payable 30 days after written notice of the amount due.

3.50.060 Additional Requirements.

(1) A utility must obtain any permit required by the North Plains Municipal Code or any other law, ordinance or resolution. Acceptance of privilege tax payments under this Chapter is not a waiver by the City of any other legal requirement.

(2) A utility must comply with all requirements of City ordinances, resolutions and practices governing the use of rights-of-way.

(3) If a utility fails to pay the privilege tax under this Chapter, fails to obtain any permit or fails to comply with any City ordinance, resolution or practice, the City may demand that the utility make the payment, obtain the permit or comply with the ordinance, resolution or practice, or remove its equipment from City rights-of-way.

3.45.070 Penalty for Violations.

A utility that violates any provision of this Chapter may be ordered to pay a fine of up to $1,000 for each day of the violation. The utility may also be ordered to remove its equipment from City rights-of-way after the City gives written notice of the violation and 30 days to remedy the violation. In the alternative the utility may enter into a compliance agreement with the City. The City retains authority to initiate legal action to enforce the requirements of this Chapter, and to waive or reduce any fine in its sole discretion.

3.50.080 Appeals.

A utility that receives notice of a violation or that receives notice that a fine has been imposed may appeal to the City Council by filing a written appeal with the City Manager within 10 days of receipt of the notice of violation or fine. The appeal must state the reasons the utility does not believe a violation has occurred or the reasons it believes the fine is unreasonable. Upon receipt of a timely appeal, the City Manager will schedule an appeal hearing before the City Council. The hearing will be set no less than 10 days after the timely appeal is filed. The City Council will affirm the determination that a violation occurred and impose a penalty or reverse that determination. If the appeal challenges a penalty, the City Council will affirm or modify the penalty.

3.50.090 Severability.

If any provision of this Chapter is held invalid, pre-empted or found unconstitutional by a state or federal court, such portion is a separate, distinct and independent provision and the holding does not affect the validity of the remaining provisions of this Chapter.

ORD. 355, March 5, 2007
ORD 361, May 7, 2007 (Amended ORD 355)
ORD 364, July 16, 2007 (Repealed ORD 355 and 361)
ORD 367, December 3, 2007 (Repealed ORD 364 and put ORD 355 and 361 back into effect)