

ORDINANCE NO. 41A

AN ORDINANCE OF THE TOWN OF STRATTON, COLORADO, IMPOSING A BUSINESS AND OCCUPATION TAX ON CERTAIN ELECTRICAL UTILITY BUSINESSES AND OCCUPATIONS CONDUCTED WITHIN THE TOWN OF STRATTON, COLORADO, PROVIDING FOR THE COLLECTION OF SAID TAX; AND PRESCRIBING PENALTIES RELATING TO SAID TAX.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF STRATTON, COLORADO, AS FOLLOWS:

1. Policy and Purpose. The Board of Trustees hereby finds, determines and declares that considering the nature of the electrical utility businesses and occupations, as hereinafter defined, and the relations thereof to the municipal welfare, as well as the relation thereof to the expenditures required of the Town, and all other matters proper to be considered thereto, the classification of said businesses and occupations as separate businesses and occupations is reasonable, proper, uniform, and non-discriminatory. The amount of tax hereby imposed by this ordinance is reasonable, proper and non-discriminatory, and necessary for the just and proper distribution of expenditures required to be made by the Town with respect to such businesses and occupations.

2. Utilities Defined. The electrical utility businesses and occupations subject to this ordinance shall be those electrical utilities defined as "public utilities" by the laws of the State of Colorado, except for the utilities hereinafter specifically excluded.

3. Tax Levy. There is hereby imposed upon all electrical utility companies, except as hereinafter excluded, which maintain facilities and carry on functions and operations within the Town of Stratton, a tax on the business and occupation of installing, maintaining and operating such electrical utility within the Town and of supplying services to the inhabitants of the Town. The amount of tax levied hereby shall be equal to three percent (3%) of the gross revenues received and derived by such electrical utility arising from the supplying, furnishing, distributing and selling of local electricity or electrical energy within the corporate limits of the Town.

4. Filing Statement and Payment of Tax. For the purpose of ascertaining the amount of the tax to be paid as required by this ordinance, it shall be the duty of such electrical utility companies, and the president, secretary, treasurer, manager, officer or agent having general control of the business of each such electrical utility company in said Town, to transmit within forty-five (45) days after the end of each

calendar quarter, a statement under oath to the Town Clerk showing the gross receipts received, as prescribed in Section 3 of this ordinance, during said quarter; said statement shall be accompanied by a payment to the Town Treasurer of the amount of the tax for said quarter, and the statement and payment shall become delinquent sixty (60) days after the end of said quarter.

5. Failure to Pay. If any electrical utility company, subject to the provisions of this ordinance shall fail to pay the taxes as herein provided, the full amount thereof shall be due and collected from such company and the same together with an addition of ten percent (10%) of the amount of taxes due shall be and is hereby declared to be a debt due and owing from such company to the Town of Stratton. The Town Attorney of the Town of Stratton upon the direction of the Board of Trustees shall commence and prosecute to final judgment and determination in any court of competent jurisdiction an action at law to collect the said debt in the name of the people of the State of Colorado, Town of Stratton.

6. Penalties. If any officer, agent or manager of a electrical utility company which is subject to the provisions of this ordinance shall fail, neglect or refuse to make or file any quarterly statement or payment in the manner herein prescribed, the said officer, agent, manager, or person shall, on conviction thereof, be punished by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Three Hundred Dollars (\$300.00), provided, that each day after said quarterly statement or payment shall become delinquent during which the said officer, agent, manager or person shall so fail, neglect or refuse to make and file such statement or payment shall be considered a separate and distinct offense.

7. Inspection of Records. The Town of Stratton, its officers, agents or representatives shall have the right at all reasonable hours and time to examine the books and records of the electrical utility companies which are subject to the provisions of this ordinance and to make copies of the entries, or contents thereof.

8. Exclusions. The provisions of this ordinance shall not apply to any electrical utility business or occupation maintaining facilities or carrying on functions and operations within the corporate limits of the Town of Stratton under a franchise granted by the Town of Stratton, the terms of which said franchise provide that the franchise fee or tax payable in connection therewith shall be in lieu of all other fees and taxes which may from time to time be imposed by the Town of Stratton upon the conduct and operation of a business or occupation within the corporate limits of the Town of Stratton; and shall not apply to any common carriers, and to any electrical utility owned and operated by the Town of Stratton.

9. Severability. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, illegal, void, or for any reason unenforceable, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Trustees of the Town of Stratton, Colorado, hereby declare that it would have phrased this ordinance and each paragraph, article, section, subsection, sentence, clause, or phrases hereof the same, irrespective of the fact that any one or more paragraphs, articles, sections, subsections, sentences, clause and phrases be declared unconstitutional, illegal, void, or for any reason unenforceable.

Passed, adopted, signed and approved this 9th day of April, 1987.

TOWN OF STRATTON, COLORADO
BOARD OF TRUSTEES

By Ray J. Kenhurst
Mayor

ATTEST:

Jackie L. Garrett
Town Clerk

(SEAL)