

ORDINANCE NO. 482

AN ORDINANCE CONCERNING REVENUE AND IMPOSING A USE AND OCCUPANCY TAX ON TELEPHONE UTILITY COMPANIES OPERATING WITHIN THE CITY OF LAS ANIMAS PROVIDING FOR THE COLLECTION OF SAID TAXES AND FOR PENALTIES WITH RESPECT THERETO.

WHEREAS, the operations of telephone utility companies involve substantial use of the public streets and rights-of-way, frequent excavations in the public streets and rights-of-way, and the regular installation, maintenance and repair of many poles, lines and cables in, under and above the public streets and rights-of-way; and,

WHEREAS, the operations of telephone utility companies place a substantial burden on the City in its efforts to provide for the public safety, and efficiently maintain and administer the public streets and rights-of-way; and

WHEREAS, considering the nature of telephone utility companies and the burdens placed by such telephone utility companies on the City, the classification of such utilities separately from other businesses and occupations is reasonable and nondiscriminatory; and

WHEREAS, the City Council of the City of Las Animas is authorized to impose taxes on the privilege of using public rights-of-way for utility purposes.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAS ANIMAS;

SECTION 1. Levy of Tax. There is hereby levied on and against each telephone utility company operating within the City of Las Animas a tax on the use and occupancy of City streets and rights-of-way in the City of Las Animas and of supplying local exchange telephone service to the inhabitants of the City. The amount of tax levied hereby shall be:

- (a) Commencing July 25, 1981, zero and 88/100 dollars, (\$.88) per telephone account for which local exchange telephone service is provided within the corporate limits of the City of Las Animas payable on the last business day of December, 1981.
- (b) Commencing on January 1, 1982, and each year thereafter, two and 50/100 dollars, (\$2.50) per telephone account for which

local exchange telephone service is provided within the corporate limits of the City of Las Animas.

SECTION 2. Time Payment of Tax. The tax levied by this Ordinance, under Section 1(b) above shall begin to accrue on the first day of January, 1982, respectively and shall be due and payable in four (4) equal quarterly installments to be paid on the last business days of the months of March, June, September and December.

SECTION 3. Filing Statement. Within thirty (30) days after the date on which the tax begins to accrue as provided in Section 1(a) and 2 above, each telephone utility company subject to this Ordinance and PUC Regulation shall file with the City Clerk in such form as the Clerk may require, a statement showing the total telephone accounts for which local exchange telephone service was provided within the corporate limits of the City on said date. Such statement shall be filed within thirty (30) days after each anniversary of the date on which the tax begins to accrue, showing such accounts on the anniversary date.

SECTION 4. Failure to Pay. If any telephone 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 plus costs of collection shall be and hereby are declared to be a debt due and owing from such company to the City. The City Attorney upon direction of the City Council shall commence and prosecute to final judgment and determination in any Court of competent jurisdiction an action at law to collect the said debt.

SECTION 5. Penalty Clause. If any officer, agent or manager of a telephone utility company which is subject to the provisions of this Ordinance shall fail, neglect, refuse to make or file the annual statement of accounts provided in Section 3, the said officer, agent, manager or person shall be deemed to have committed a misdemeanor and on conviction thereof, be punished by a fine not less than Twenty Five Dollars (\$25.00) nor more than Three Hundred Dollars (\$300.00); pro-

vided, that each day after said statement shall become delinquent during which the said officer, agent, manager or person shall so fail, neglect, or refuse to make and file such statement, it shall be considered a separate and distinct offense.

SECTION 6. Inspection of Records. The City, its officers, agents, or representatives shall have the right at all reasonable hours and times to examine the books and records of the telephone utility companies which are subject to the provisions of this Ordinance and to make copies of the entries or contents thereof.

SECTION 7. Local Purpose. The tax herein provided is upon the performance of local functions and is not a tax upon those functions relating to interstate commerce. It is expressly understood that none of the terms of this Ordinance be construed to mean that any telephone utility company is issued a franchise by the City or that any other obligation to the City by such utility is in any way altered.

SECTION 8. Certain Offenses and Liabilities to Continue. All offenses committed and all liabilities incurred prior to the effective date of this Ordinance shall be treated as though all prior applicable Ordinances and amendments thereto were in full force and effect for the purpose of sustaining any proper suit, action or prosecution with respect to such offenses and liabilities. All taxes, the liability for which has been accrued under the terms and provisions of any prior Ordinance on or before the effective date of this Ordinance, shall be and remain unconditionally due and payable, and shall constitute a debt to the City payable in conformity with the terms and provisions of such Ordinance prior to the adoption of this Ordinance; and all of said terms and provisions of any prior Ordinance shall be and remain in full force and effect for the purpose of the collection and payment of any and all such taxes due and payable thereunder, notwithstanding the provisions of this Ordinance.

SECTION 10. Effective Date. This Ordinance shall take effect on July 25, 1981.

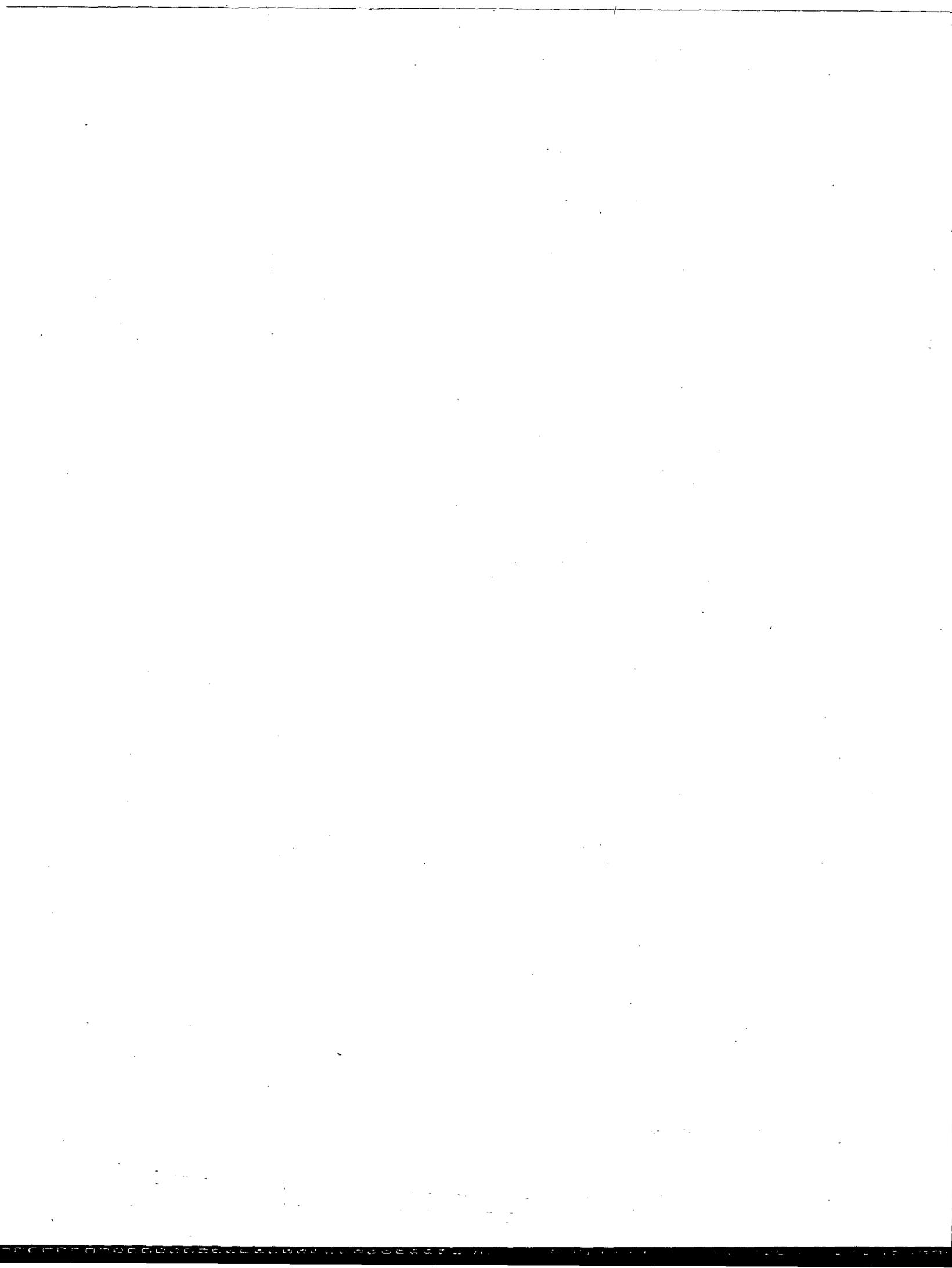
Passed on first reading this 7<sup>th</sup> day of July, 1981.

Adopted and approved this 4<sup>th</sup> day of August, 1981.

ATTEST:

Lila Maupin  
Lila Maupin, City Clerk

Alferd Putnam  
Alferd Putnam, Mayor



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