

ORDINANCE NO. __

MUNICIPAL UTILITY TAX

BE IT ORDAINED BY THE CITY COUNCIL (PRESIDENT AND BOARD OF TRUSTEES) OF THE CITY (VILLAGE) OF _____ THAT:

Section 1. A tax is imposed on all persons engaged in the following occupations or privileges:

- a. Persons engaged in the business of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of _____, and not for resale, at the rate of ___% of the gross receipts therefrom.
- b. Persons engaged in the business of distributing, supplying, furnishing, or selling water for use or consumption within the corporate limits of _____, and not for resale, at the rate of ___% of the gross receipts therefrom.

(Note: If any of the utility services listed above (in a. or b.) are not to be taxed pursuant to the municipal utility tax ordinance in a particular municipality, the appropriate paragraphs should be omitted.)

Section 2. No tax is imposed by this ordinance with respect to any transaction in interstate commerce or otherwise to the extent to which such business may not, under the constitution and statutes of the United States, be made subject to taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing or selling gas or water be subject to taxation under the provisions of this ordinance for such transactions as are or may become subject to taxation under the provisions of the "Municipal Retailers' Occupation Tax Act" authorized by Section 8-11-1 of the Illinois Municipal Code.

(Note: If any of the utility services listed in Section 2 above (i.e., gas or water) are not to be taxed pursuant to the municipal utility tax ordinance in a particular municipality, reference to them should be omitted in this paragraph.)

Section 3. Such tax shall be in addition to the payment of money, or value of products or services furnished to this municipality by the taxpayer as compensation for the use of its streets, alleys, or other public places, or installation and maintenance therein, thereon or thereunder of poles, wires, pipes or other equipment used in the operation of the taxpayer's business.

Section 4. For the purposes of this ordinance the following definitions shall apply:

- a. "Gross receipts" means the consideration received for distributing, supplying, furnishing or selling gas or water for use or consumption and not for resale, as the case may be; and for all services rendered in connection therewith valued in money, whether received in money or otherwise, including cash, credit, services and property of every kind and material and for all services rendered therewith; and shall be determined without any deduction on account of the cost of the service, product or commodity supplied, the

cost of materials used, labor or service cost, or any other expenses whatsoever; provided, however that “gross receipts” shall not include any amounts specifically excluded from the definition of gross receipts in Section 8-11-2(d) of the Illinois Municipal Code.

(Note: If any of the utility services listed in Section 4.a. above (i.e., gas or water) are not to be taxed pursuant to the municipal utility tax ordinance in a particular municipality, reference to them should be omitted in this paragraph.)

b. “Persons” means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, limited liability company, municipal corporation, the State or any of its political subdivisions, any State university created by statute, or a receiver, trustee, guardian or other representative appointed by order of any court.

Section 5. This ordinance shall take effect after publication and the tax provided for herein shall be based on the gross receipts, as herein defined, actually paid to the taxpayer for services billed on or after the ____ day of _____, 20__.

(Note: In all municipalities except commission form cities publication must be made in accordance with Section 1-2-4 of Chapter 24, but it is suggested that the ordinance not go into effect until the first day of a month in order to simplify the return of the taxpayer.)

Section 6. On or before the last day of _____, 20__ (Note: use either the first month or third month after the month in the preceding section, i.e., if the tax begins in January the report is due in either February, if monthly, or April, if quarterly) each taxpayer shall make a return to the City [Village] Treasurer¹ for the [month of _____] [months of _____, _____, and _____, 20__], stating:

1. His name;
2. His principal place of business;
3. His gross receipts during those months upon the basis of which the tax is imposed.
4. Amount of tax;
5. Such other reasonable and related information as the corporate authorities may require.

On or before the last day of every [month] [third month] thereafter, each taxpayer shall make a like return to the City [Village] Treasurer for a corresponding [one month] [three months] period.

¹ While this official has been named in this model ordinance, the Council or Board may, of course, desire to designate some other official.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the City [Village] Treasurer, the amount of tax herein imposed; provided that in connection with any return the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings and the taxable gross receipts.

Section 7. If it shall appear that an amount of tax has been paid which was not due under the provisions of this ordinance, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this ordinance from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than three (3) years prior to the filing of a claim therefore shall be so credited.

Section 8. No action to recover any amount of tax due under the provisions of this ordinance shall be commenced more than three (3) years after the due date of such amount.

Section 9. Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this ordinance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars (\$100) nor more than seven hundred fifty dollars (\$750) and in addition shall be liable in a civil action for the amount of tax due.

Section 10. The City [Village] Clerk is hereby directed to send a certified copy of this ordinance to each utility company affected by this ordinance.

PASSED this ___ day of _____, 20__.

APPROVED: _____

ATTEST:
