

Ordinance No. 1171

AN ORDINANCE to amend and reordain Article VII of Chapter 17 of the Code of the City of Alexandria, Virginia, 1953, as amended, which said Chapter 17 relates to LICENSES and which said Article VII relates to THE IMPOSING AND LEVYING OF A TAX ON PERSONS PURCHASING CERTAIN UTILITY SERVICES, THE DEFINING OF CERTAIN TERMS, THE FIXING OF THE AMOUNT OF THE TAX, THE PROVIDING FOR THE COLLECTION THEREOF, AND THE PRESCRIBING OF PENALTIES FOR VIOLATIONS.

WHEREAS, pursuant to due and timely notice of time and place of hearing published in a daily paper of general circulation in the City of Alexandria, Virginia, a public hearing was held in relation to the matters hereinafter set forth, at which public hearing parties in interest and citizens had an opportunity to be heard.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article VII, Chapter 17 of the Code of the City of Alexandria, Virginia, 1953, as amended, be and the same hereby is amended and reordained to read as follows:

ARTICLE VII. TAX ON PERSONS PURCHASING CERTAIN UTILITY SERVICES

Sec. 17-108. Words, Phrases and Terms Defined.

The following words, phrases and terms, when used in this chapter in relation to utility taxes, shall, for the purposes of this Article, have the following respective meaning except where the context clearly indicates a different meaning.

A. Person. The word "person" shall include individuals, firms, partnerships, associations, corporations and combinations of individuals of whatever form and character.

B. Utility Service. The phrase "utility service" shall include a local exchange telephone service, electricity service, gas service and water service furnished in the corporate limits of the City of Alexandria.

C. Purchaser. The word "purchaser" shall include every person who purchases a utility service.

D. Seller. The word "seller" shall include every person whether a public service corporation or a municipality, or not, who sells or furnishes a utility service.

E. Residential User. The term "residential user" shall mean the owner or tenant of property used primarily for residential purposes, and shall include, but not by way of limitation, apartment houses and other multiple family dwellings.

F. Commercial or Industrial User. The term "commercial or industrial user" shall mean the owner or tenant of property used primarily for commercial or industrial purposes, but shall not include apartment houses or other multiple family dwellings.

G. Used Primarily. The phrase "used primarily" shall relate to the larger portion of the use for which the utility service is furnished,

and for the purposes of this Article in the determination of the primary use for which a utility service is furnished, the primary or larger portion of that use shall be determined by the relative load for each use or the relative time of operation of each.

H. Multiple Family Dwelling. The phrase "multiple family dwelling" shall mean a building or a portion thereof containing two or more dwelling units, but not including hotels or motels.

I. Dwelling Unit. The term "dwelling unit" shall mean one or more rooms designed or intended for occupancy by a single family.

Sec. 17-109. Tax Rate and Levy.

Beginning July 1, 1962, and continuing thereafter unless otherwise changed, there is hereby imposed and levied by the City of Alexandria, Virginia, upon each and every purchaser of a utility service a tax for general purposes in the amount of ten per centum (10%) of the charge (exclusive of any Federal or State tax thereon) made by the seller against the purchaser with respect to each utility service, which tax in every case shall be collected by the seller from the purchaser and shall be paid by the purchaser unto the seller for the use of the City of Alexandria at the time that the purchase price or such charge shall become due and payable under the agreement between the purchaser and the seller; provided, however, that in case any monthly bill submitted by any seller for service to a commercial or industrial user shall exceed ONE HUNDRED DOLLARS (\$100.00), there shall be no tax computed on so much of said bill as shall exceed ONE HUNDRED DOLLARS (\$100.00). Bills shall be considered monthly bills for the purpose of this Article, if submitted twelve times per year for periods of approximately one month each. Accordingly, there shall be no tax computed on so much of a bill for services submitted to a commercial or industrial user in excess of TWO HUNDRED DOLLARS (\$200.00) where such billing is made on a bi-monthly basis, that is, every other month, and there shall be no tax computed on so much of a bill for services submitted to a commercial or industrial user in excess of THREE HUNDRED DOLLARS (\$300.00) where such billing is made quarterly.

Sec. 17-110. Application for Classification as Commercial or Industrial User; Penalties.

All purchasers shall be presumed to be residential users unless and until application is made to the City Collector and approved by the City Collector for classification as a commercial or industrial user. Upon such approval of said classification, the City Collector shall furnish to each such commercial or industrial user a certificate stating such classification. Said certificate shall state on its face the name of the user, his address, and a brief statement as to why such classification as commercial or industrial user was granted, as well as serial number assigned to such certificate.

The holder of any such certificate shall notify the City Collector immediately upon any change in his operation that would or might alter his status as a commercial or industrial user. Failure to so notify the City Collector shall be grounds for revoking any such certificate then outstanding.

Any person who claims any tax exemption or benefit as a commercial or industrial user without having obtained a certificate, or who does not have a valid certificate at the time such claim is made, shall be guilty of a misdemeanor.

Sec. 17-111. Duty of Seller.

A. It shall be the duty of every seller in acting as the tax collection medium or agency for the City of Alexandria to collect from the purchaser for the use of the City the tax hereby imposed and levied at the time of collecting the purchase price charged therefor, and the taxes collected during each calendar month or billing period shall be reported and paid by each seller to the City Collector by the 15th day of the second calendar month thereafter, together with the name and address of any purchaser who has refused to pay his tax.

B. In all cases where the seller collects the price for utility service in stated periods, the tax hereby imposed and levied shall be computed on the amount of purchase during the month or period according to each bill rendered, provided the amount of tax to be collected shall be the nearest whole cent to the amount computed.

C. Each and every seller shall keep complete records showing all purchases in the City, which records shall show the price charged against each purchaser with respect to each purchase, the date thereof, and the date of payment thereof, and the amount of tax imposed hereunder, and such records shall be kept open for inspection by the duly authorized agents of the City during regular business hours on business days, and the duly authorized agents of the City shall have the right, power, and authority to make such transcripts thereof during such times as they may desire.

D. The seller shall collect the tax imposed and levied by this Article from all purchasers on a residential user basis, except for those purchasers whose names appear on the lists of commercial and industrial users, which said lists are prepared by the City Collector, pursuant to Section 17-115 of this Article, provided, however, that notwithstanding any other provision of this Article, any seller of a utility service that maintains records and rate schedules or tariffs approved by the State Corporation Commission of Virginia which segregate charges for such utility service as between residential users and commercial and industrial users, may classify and collect the tax imposed and levied by this Article in accordance with such segregation, except that apartment houses and other multiple family dwellings shall be classified as residential users.

Sec. 17-112. Power to City Collector to Prescribe Forms, Make Regulations, and Extend Time of Payment.

A. The City Collector is hereby authorized to prescribe forms for the filing of any report or the payment of any funds as set forth in Article VII.

B. The City Collector is hereby authorized to make and establish rules and regulations, not inconsistent with this Article to help carry out the provisions of the Article.

C. The City Collector is hereby authorized to extend, for good cause shown, the time of filing any return required to be filed by the provisions of this Article, provided, however, no such extension shall exceed a period of 90 days.

Sec. 17-113. Exemptions.

The United States of America, diplomatic personnel exempted by the laws of the United States, the State of Virginia, and the political subdivisions, boards, commissions and the authorities and agencies thereof, including the City of Alexandria, are hereby exempt from the payment of the tax imposed and levied by this subsection with respect to the purchase of utility services used by such governmental agencies. The tax hereby imposed and levied shall not apply to the purchase of bottled water, or service from the Alexandria, Virginia Sanitation Authority.

The tax hereby imposed and levied shall not apply to purchases of utility services by and for the exclusive benefit of any local unincorporated religious congregation, church or religious society or branch or division thereof located within the City of Alexandria, provided such utility services are used in and for property being devoted primarily to religious purposes at the time of said purchases; nor shall said tax apply to purchases of utility services to be used in any school or schools conducted within the City of Alexandria by any such local unincorporated religious congregation, church or religious society or branch or division thereof.

Sec. 17-114. Provision Applicable to Telephone Service.

The tax hereby imposed and levied on purchasers with respect to telephone service shall apply to all charges made for local telephone exchange service except as follows:

(a) Coin box telephone: the total amount of the guaranteed charge on each bill rendered for semi-public coin box telephone service shall be included in the basis for the tax with respect to the purchaser of such service, but no other tax shall be imposed on telephone service paid for by inserting coins in coin operated telephones;

(b) Flat rate service: with respect to flat rate and flat message rate service, the tax shall apply only to the amount payable for local area service and shall not apply to any specific charge for calls to points outside the City of Alexandria or to any general charge or rate differential payable for the privilege of calling points outside the City of Alexandria;

(c) Message rate service: where purchasers of telephone service are charged on a message rate basis, the tax shall apply only to the basic charge for such service and shall not apply to any charge for additional message units.

Sec. 17-115. Duty of City Collector.

The City Collector shall be charged with the power and duty of collecting the taxes imposed and levied under this Article.

The City Collector shall distribute to each seller except sellers that elect to maintain records and rate schedules or tariffs for classifying commercial or industrial users, as provided in Section 17-111, a list containing the names and addresses of all commercial and industrial users served by the said seller. The lists shall be kept current by the City Collector by notifying the sellers of any additions and deletions thereto, and shall be revised completely at least once per calendar year.

Sec. 17-116. Penalties.

Any purchaser failing, refusing or neglecting to pay the tax imposed and levied by Article VII and any seller violating the provisions of Article VII, and any officer, agent or employee of any seller violating the provisions of Article VII shall be guilty of a misdemeanor and shall be punished by a fine of not less than Ten Dollars (\$10.00) nor more than Three Hundred Dollars (\$300.00) or by imprisonment in jail for not more than three months, or by both such fine and imprisonment. Each failure, refusal, neglect or violation and each day's continuance thereof shall constitute a separate offense. Such conviction shall not relieve any person from the payment, collection and remittance of said tax as provided in Article VII.

Sec. 17-117. Effective Date of Levy.

The tax hereby levied and imposed under this Article with respect to the purchase of any utility service shall apply to charges first appearing on bills rendered on and after July 1, 1962, and thereafter, unless otherwise changed except that as to electricity and gas service, the tax shall apply to billings based on meter readings on and after July 1, 1962.

Sec. 17-118. Saving Clause.

If any section, subsection, sentence, clause, phrase, part or provision of this Article shall be declared unconstitutional, void, or invalid for any reason, the validity of the remaining portions of this Article shall not be affected thereby but shall continue in full force and effect.

Section 2. That this ordinance shall be published in a newspaper of general circulation in the City not later than five days following its introduction together with a notice containing the time and place for a public hearing. The Clerk of the Council shall note the date of introduction and first reading, the date of publication, the date of the public hearing, and the date of the second reading and final passage in the minutes of the meeting. This ordinance shall become effective the date of its final passage.

FRANK E. MANN
Mayor

Final Passage: June 19, 1962