

ORDINANCE NO. 3451

AN ORDINANCE to amend and reordain Section 3-2-61 (DEFINITIONS), Section 3-2-62 (TAX RATE AND LEVY), Section 3-2-63 (APPLICATION FOR CLASSIFICATION AS COMMERCIAL OR INDUSTRIAL USER), Section 3-2-66 (EXEMPTION; MAXIMUM TAX) and Section 3-2-68 (APPLICABILITY TO RESIDENTIAL USERS OF GAS AND ELECTRICITY SERVICE), of Article F (TAX ON PERSON'S PURCHASING CERTAIN UTILITY SERVICES), Chapter 2 (TAXATION), Title 3 (FINANCE, TAXATION AND PROCUREMENT) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 3-2-61 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

Sec. 3-2-61 Definitions.

The following words, phrases and terms shall, for the purposes of this article, have the following respective meanings, except where the context clearly indicates a different meaning:

(1) Commercial or industrial user. The owner or tenant of property used primarily for commercial or industrial purposes, but this term shall not include apartment houses or other multiple family dwellings.

(2) Dwelling unit. One or more rooms designed or intended for occupancy by a single family.

(3) Interruptible gas user. A residential multiple-family dwelling user or a commercial or industrial user who or which receives gas service, pursuant to an executed contract, which may be interrupted by the provider of gas service under tariffs approved by the State Corporation Commission of Virginia.

(4) Multiple-family dwelling. A building or a portion thereof containing two or more dwelling units, but not including hotels or motels.

(5) Purchaser. Every person who purchases a utility service.

(6) Residential user. The owner or tenant of property used primarily for residential purposes, and this term shall include, but not by way of limitation, apartment houses and other multiple family dwellings.

(7) Seller. Every person, whether or not a public service corporation or a municipality, who sells or furnishes a utility service.

(8) Used primarily. This term 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.

(9) Utility service. This term shall include a local exchange telephone service, electricity service, gas service and water service furnished in the city.

Section 2. That Section 3-2-62 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

Sec. 3-2-62 Tax rate and levy.

(a) Except as provided below in subsection (b) and subject to the provisions of section 3-2-68 of this code, there is hereby imposed and levied by the city, upon every purchaser of a utility service, a tax for general purposes in the following amounts: 15 percent for water service, 16 percent for gas service, 16 percent for electric service and 25 percent for telephone service. The above mentioned tax rates shall be computed as a percent 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 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, that in case any monthly bill submitted by any seller for service to a commercial or industrial user shall exceed \$150, there shall be no tax computed on so much of the bill as shall exceed \$150. Bills shall be considered monthly bills, for the purpose of this article, if submitted 12 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 \$300 where the 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 \$450 where the billing is made quarterly.

(b) Any provision in subsection (a) to the contrary notwithstanding, the utility tax imposed and levied upon the following users of electricity and/or natural gas shall be computed by applying the tax rates applicable to those users, as set out in subsections below, to the entire charge (exclusive of any federal or state tax thereon) made against the users by the seller of electricity or gas, whether the charge is billed monthly, bi-monthly or quarterly:

(i) commercial or industrial users of electricity:
8.5 percent;

(ii) commercial or industrial users of gas, other than interruptible gas users: 8.5 percent;

(iii) commercial or industrial interruptible gas users:
4.5 percent;

(iv) residential multiple-family dwelling interruptible users of gas: 4.5 percent; provided, that, if the utility tax payable under this rate exceeds the tax payable by applying a tax rate of 16 percent to the product of \$15 (\$30 if the user is billed bi-monthly and \$45 if billed quarterly) times the number of residential units in the multiple-family dwelling, then only the latter, lesser tax amount shall be due and payable.

Section 3. That Section 3-2-63 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

Sec. 3-2-63 Application for classification as commercial or industrial user or as interruptible gas user.

(a) Every commercial or industrial user of a utility service and every interruptible gas user in the city shall apply forthwith to the director for classification as a commercial or industrial user or as an interruptible gas user. Upon receipt of the application, if approved by the director, a certificate shall be furnished to the applicant stating such classification. The 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 or as an interruptible gas user was granted, as well as a serial number assigned to the certificate.

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

(c) No person shall claim any tax exemption or benefit as a commercial or industrial user or as an interruptible gas user without having obtained a certificate, or fail or neglect to have a valid certificate at the time the claim is made.

(d) All purchasers of water service and telephone service in the city shall be presumed to be residential users, unless and until application is made to and approved by the director for classification as a commercial or industrial user.

Section 4. That Section 3-2-66 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

Sec. 3-2-66 Exemptions; maximum tax.

(a) Any provision in subsection (c) to the contrary notwithstanding, the United States of America, diplomatic personnel exempted by the laws of the United States, the state and the political subdivisions, boards, commissions and the authorities and agencies thereof, including the city, are hereby exempt from the payment of the tax imposed and levied by this article 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 Sanitation Authority.

(b) Any provision in subsection (c) to the contrary notwithstanding, the tax imposed and levied by this article 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, provided such utility services are used in and for property being devoted primarily to religious purposes at the time of the purchases; nor shall such tax apply to purchases of utility services to be used in any schools conducted within the city by any such local unincorporated religious congregation, church or religious society or branch or division thereof.

(c) The tax imposed and levied by this article upon hospitals which operate within the city and upon entities which receive, or are eligible for, an exemption from city real property taxes under section 3606 or sections 3609 through 3621 of the Virginia Code (1950), as amended, or under the Virginia Constitution, or which have been designated by the Virginia General Assembly as exempt from city real property taxes, shall not exceed \$24 a month.

Section 5. That Section 3-2-68 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

Sec. 3-2-68 Applicability to residential users of gas and electricity service.

(a) There is excluded from the tax imposed by this article so much of the charge (exclusive of any federal or state tax thereon) made by a seller of gas service against any residential user (other than a residential multiple-family dwelling interruptible gas user) as is in excess of \$15 for any month or portion of a month; provided, that in the case of any apartment house or other multiple-family dwelling wherein gas service is furnished by or through master meters, such sum of \$15 shall be multiplied by the number of dwelling units served by or through the master meters.

(b) There is excluded from the tax imposed by this article so much of the charge (exclusive of any federal or state tax thereon) made by a seller of electricity service against any residential user as is in excess of \$15 for any month or portion of a month; provided, that in the case of any apartment house or other multiple-family dwelling wherein such electricity service is furnished by or through master meters, such sum of \$15 shall be multiplied by the number of dwelling units served by or through such master meters.

(c) In the case of bi-monthly billing, the \$15 limitations set forth in subsections (a) and (b) respectively, of this section shall be multiplied by two; accordingly if there should be quarterly billing, the limitations shall be multiplied by three.

Section 6. That this ordinance shall be deemed to be enacted on the date of its final passage, but shall not be effective until 60 days subsequent to the provision of written notice by certified mail from the City Clerk to the registered agents of the electric and natural gas utility corporations required to collect the taxes imposed by the ordinance.

JAMES P. MORAN, JR.
Mayor

Final Passage: May 7, 1990