

ORDINANCE NO. 4164

AN ORDINANCE to amend and reordain Article F (TAX ON PERSONS PURCHASING CERTAIN UTILITY SERVICES) of, and to add a new Article V (ELECTRIC AND NATURAL GAS CONSUMERS TAX) to, Chapter 2 (TAXATION), Title 5 (FINANCE, TAXATION AND PROCUREMENT), and to amend and reordain Section 9-1-84 (PUBLIC UTILITIES) of Chapter 1 (BUSINESS LICENSES), Title 9 (LICENSING AND REGULATION), all of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article F of Chapter 2, Title 3 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:

Article F

TAX ON PERSONS PURCHASING TELEPHONE AND WATER SERVICES

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

(4) *Purchaser.* Every person who purchases a utility service.

(5) *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.

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

(7) *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 by each.

(8) *Utility service.* This term shall include a local exchange telephone service and water service furnished in the city.

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

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 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.

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

(a) Every commercial or industrial user of a utility service shall apply forthwith to the director for classification as a commercial or industrial 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 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. 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 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.

Sec. 3-2-64 Duty of seller.

(a) It shall be the duty of every seller, in acting as the tax collection medium or agency for the city to collect from the purchaser for the use of the city the tax imposed and levied by this article 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 director by the fifteenth 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 imposed and levied by this article shall be computed on the amount of purchase during the month or period according to each bill rendered; provided, that the amount of tax to be collected shall be the nearest whole cent to the amount computed.

(c) 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, the date of payment thereof and the amount of tax imposed hereunder, and such records shall be kept open for inspection by the director during regular business hours on business days, and the director 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 lists are prepared by the director, pursuant to section 3-2-69 of this code; provided, 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 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. 3-2-65 Power of director of finance to prescribe forms, make regulations and extend time of payment.

(a) The director is hereby authorized to prescribe forms for the filing of any report or the payment of any funds as set forth in this article.

(b) The director is hereby authorized to make and establish rules and regulations not inconsistent with this article to help carry out the provisions of this article.

(c) The director 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, that no such extension shall exceed a period of 90 days.

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 title 58.1 of the Virginia Code (1950), as amended, or under the Virginia Constitution, shall not exceed \$24 a month.

Sec. 3-2-67 Applicability to telephone service.

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

(1) Coin box telephone. The total number of the guaranteed charge on each bill rendered for semipublic coin box telephone service shall be included in the basis for the tax with respect to the purchaser of this service, but no other tax shall be imposed on telephone service paid for by inserting coins in coin operated telephones.

(2) 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 or to any general charge or rate differential payable for the privilege of calling points outside the city.

(3) 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 the service and shall not apply to any charge for additional message units.

Sec. 3-2-68 Repealed.

Sec. 3-2-69 Duties of director.

(a) The director shall be charged with the power and duty of collecting the taxes imposed and levied under this article.

(b) The director 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 3-2-64 of this code, a list containing the names and addresses of all commercial and industrial users served by the seller. The lists shall be kept current by the director by notifying the sellers of any additions and deletions thereto, and shall be revised completely at least once per calendar year.

Sec. 3-2-70 Penalties.

Any purchaser failing, refusing or neglecting to pay the tax imposed and levied by this article and any purchaser or seller violating any of the provisions of this article and any officer, agent or employee of any seller violating the provisions of this article shall, upon conviction thereof, be punished by a fine of not less than \$10 nor more than \$300 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 the tax as provided in this article.

Secs. 3-2-71 through 3-2-80 reserved.

Section 2. That a new Article V is hereby added to Chapter 2, Title 3 of The Code of the City of Alexandria, Virginia, 1981, as amended, and the same is hereby enacted to read as follows:

Article V

ELECTRIC AND NATURAL GAS CONSUMERS TAX

Sec. 3-2-372 Definitions.

The following words and phrases, when used in this article, shall have the following meanings:

(1) *Commercial consumer.* The owner or tenant of property used primarily for commercial purposes, or for purposes not otherwise defined in this section, but not including apartment houses and other multiple-family dwellings.

(2) *CCF.* The volume of gas at standard pressure and temperature in units of 100 cubic feet.

(3) *Consumer.* Every person who, individually or through agents, employees, officers, representatives or permittees, makes a taxable purchase of utility services in the city.

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

(5) *Gas utility.* A public utility authorized to furnish natural gas service in Virginia.

(6) *Group meter consumer.* The owner or operator of an apartment house or other multiple-family dwelling who or which receives a utility service for all dwelling units situated within such apartment house or other multiple-family dwelling, which utility service is metered through a single meter.

(7) *Group meter interruptible gas consumer.* A group meter consumer who or which receives natural gas service, pursuant to an executed contract, which may be interrupted by the service provider under tariffs approved by the State Corporation Commission of Virginia.

(8) *Industrial consumer.* The owner or tenant of property used primarily for industrial purposes, but not including apartment houses and other multiple-family dwellings.

(9) *Kilowatt hours (kWh) delivered.* 1000 watts of electricity delivered in a one-hour period by an electric provider to an actual consumer, except that in the case of eligible customer-generators (sometimes called cogenerators), as defined in Virginia Code ' 56-594, it means kWh supplied from the electric grid to such customer-generators, minus the kWh generated and fed back to the electric grid by such customer-generators.

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

(11) *Non-residential consumer.* A commercial consumer or an industrial consumer.

(12) *Non-residential interruptible gas consumer.* A non-residential consumer who or which receives natural gas service, pursuant to an executed contract, which may be interrupted by the service provider under tariffs approved by the State Corporation Commission of Virginia.

(13) *Person.* Any individual, corporation, company or other entity.

(14) *Pipeline distribution company.* A person, other than a pipeline transmission company which transmits, by means of a pipeline, natural gas, manufactured gas or crude petroleum and the products or byproducts thereof to a consumer for purposes of furnishing heat or light.

(15) *Residential consumer.* The owner or tenant of property used primarily for residential purposes, including but not limited to, apartment houses and other multiple-family dwellings.

(16) *Service provider.* A person who delivers electricity to a consumer, or a gas utility or pipeline distribution company which delivers natural gas to a consumer.

(17) *Used primarily.* Relates to the larger portion of the use for which utility service is furnished.

(18) *Utility service.* Electric service or natural gas service.

Sec. 3-2-373 Electric utility consumer tax.

There is hereby imposed and levied a monthly tax on each purchase of electricity delivered to a consumer by a service provider, classified as determined by such service provider, as follows:

(a) *Residential consumers.* Such tax on residential consumers shall be at the rates per month for the classes of residential consumers as set forth below:

(i) *Residential consumers generally.* Such tax on a residential consumer, except as set forth below, shall be \$1.12, plus the rate of \$0.012075 on each kWh delivered monthly to such residential consumer by a service provider, not to exceed \$2.40 monthly.

(ii) *Group meter consumer.* Such tax on a group meter consumer shall be \$1.12, multiplied by the number of dwelling units served by such group meter, plus the rate of \$0.012075 on each kWh delivered monthly to such group meter consumer by a service provider, not to exceed \$2.40 monthly multiplied by the number of dwelling units served by such group meter.

(b) *Non-residential consumers.* Such tax on non-residential consumers shall be at the rates per month for the classes of non-residential consumers as set forth below:

(i) *Commercial consumers.* Such tax on a commercial consumer shall be \$0.97, plus the rate of \$0.004610 on each kWh delivered monthly to such commercial consumer by a service provider.

(ii) *Industrial consumers.* Such tax on an industrial consumer shall be \$0.97, plus the rate of \$0.003755 on each kWh delivered monthly to such industrial consumer by a service provider.

Sec. 3-2-374 Natural gas utility consumer tax.

There is hereby imposed and levied a monthly tax on each purchase of natural gas delivered to consumers by pipeline distribution companies and gas utilities classified by a class of consumers, as such term is defined in Virginia Code § 58.1-3814(J), as follows:

(a) *Residential consumers.* Such tax on residential consumers shall be at the rates per month for the classes of residential consumers as set forth below:

(i) *Residential consumers generally.* Such tax on a residential consumer, except as set forth below, shall be \$1.28, plus the rate of \$0.124444 on each CCF delivered monthly to such residential consumer by a service provider, not to exceed \$2.40 monthly.

(ii) *Group meter consumer.* Such tax on a group meter consumer shall be \$1.28, multiplied by the number of dwelling units served by such group meter, plus the rate of \$0.050909 on each CCF delivered monthly to such group meter consumer by a service provider, not to exceed \$2.40 monthly multiplied by the number of dwelling units served by such group meter.

(iii) *Group meter interruptible gas consumer.* Such tax on a group meter interruptible gas consumer shall be \$1.28, multiplied by the number of dwelling units

served by such group meter, plus \$0.023267 on each CCF delivered monthly to such group meter interruptible gas consumer by a service provider, not to exceed \$2.40 monthly multiplied by the number of dwelling units served by such group meter.

(b) *Non-residential consumers.* Such tax on non-residential consumers shall be at the rates per month for the classes of non-residential consumers as set forth below:

(i) *Commercial consumers.* Such tax on a commercial consumer shall be \$1.42, plus the rate of \$0.050213 on each CCF delivered monthly to such commercial consumer by a service provider.

(ii) *Industrial consumers.* Such tax on an industrial consumer shall be \$1.42, plus the rate of \$0.050213 on each CCF delivered monthly to such industrial consumer by a service provider.

(iii) *Non-residential interruptible gas consumers.* Such tax on a non-residential interruptible gas consumer shall be \$4.50, plus the rate of \$0.003670 on each CCF delivered monthly to such non-residential interruptible gas consumer by a service provider.

Sec. 3-2-375 Exemptions; maximum tax.

(a) 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.

(b) The tax imposed and levied by this article upon (i) 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, or (ii) 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, shall not exceed \$0.97 a month for electric service and \$1.42 a month for natural gas service.

(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 title 58.1 of the Virginia Code (1950), as amended, or under the Virginia Constitution, shall not exceed \$24 a month.

Sec. 3-2-376 Billing, collection and remittance of tax.

(a) The service provider shall bill the tax to each consumer who is subject to the tax and to whom it delivers utility services, by adding it as a separate charge to such consumer=s monthly statement, and shall collect the tax from all such consumers. Until the consumer pays the tax to such service provider, the tax shall constitute a debt of the consumer to the city. If any consumer receives and pays for utility service but refuses to pay the tax that is imposed by this article, the service provider shall notify the director of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider, including the tax that is imposed by this article, the service provider shall follow its normal collection procedures with respect to the charge for service and the tax, and upon collection of the bill or any part thereof shall (i) apportion the net amount collected between the charge for utility service and the tax, and (ii) remit the tax portion to the city. After the consumer pays the tax to the service provider, the tax collected shall be deemed to be held in trust by such service provider until remitted to the city.

(b) A service provider shall remit monthly to the city the amount of tax paid during the preceding month by the service provider=s consumers.

(c) The tax shall be remitted to the city, on or before the last day of the succeeding month of collection. Failure to remit timely will result in a ten percent penalty.

(d) Bills shall be considered as monthly bills for the purposes of this article if submitted 12 times per year with approximately 30 days in each billing cycle. Accordingly, the tax for a bi-monthly bill (approximately 60 days in each billing cycle) shall be determined as follows: (i) a monthly usage of utility service shall be calculated by dividing the kWh or CCF usage number in a bi-monthly bill by two; (ii) a monthly tax shall then be calculated by multiplying the quotient determined in (i) above by the rate in the appropriate classification set forth in sections 3-2-373 or 3-2-374; (iii) the monthly tax determined in (ii) above shall be multiplied by two; and (iv) the tax determined in (iii) above shall not exceed twice the monthly maximum tax for the appropriate classification set forth in sections 3-2-373 or 3-2-374.

Sec. 3-2-377 Reports and records.

At the same time that service providers remit the monthly taxes collected in accordance with section 3-2-376, all such service providers shall file reports of collections received from consumers, and those reports shall show all taxes collected, all taxes not collected, and all amounts apportioned pursuant to section 3-2-376. All such reports shall include the names and addresses of any consumer who has refused to pay any tax imposed by this article. All service providers shall also keep complete records showing all utility service provided in the city, which records shall show all purchases of the utility services in the city, the amount of tax imposed under this article, and the date of payment of such tax, and such records shall be kept open for inspection by the director or other authorized agent of the city.

Sec. 3-2-378 Power of director of finance to prescribe forms, make regulations and extend time of payment.

(a) The director is hereby authorized to prescribe forms for the filing of any report or the payment of any funds as set forth in this article.

(b) The director is hereby authorized to make and establish rules and regulations not inconsistent with this article to help carry out the provisions of this article.

(c) The director is hereby authorized to extend, for good cause shown, the time of filing any form required to be filed by the provisions of this article; provided, that no such extension shall exceed a period of 90 days.

Sec. 3-2-379 Violation of article.

Any consumer or service provider violating the provisions of this article, and any officer, agent or employee of any service provider violating the provisions of this article, shall be deemed guilty of a class 4 misdemeanor. Each failure, refusal, neglect or violation and each day=s continuance thereof shall constitute a separate offense. A conviction for violation of this article shall not relieve any person from the payment, collection and remittance of the tax as provided in this article.

Section 3. That Section 9-1-84 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. 9-1-84 Public utilities.

(a) All motor vehicle carriers operating on or through the streets of the city shall pay for the privilege of using the streets, roads and routes, including bridges, an annual license tax as follows: one-fifth cent per mile for each mile operated within the city by any vehicle weighing 5,000 pounds or less, two-fifths cent per mile for each mile so operated by any vehicle weighing more than 5,000 pounds and less than 15,000 pounds; and three-fifths cents per mile for each mile so operated by any vehicle weighing more than 15,000 pounds.

(b) All telephone companies, for the privilege of doing business in the city, shall pay an annual license tax equal to \$1.03 per \$100 of the gross receipts for the rentals, subscriptions and stations, excluding however, business done between the city and points without the state and messages sent by the federal government of this state and their officers and agents.

(c) All persons engaged in the business of sending telegrams from the city to any point within the state shall pay for the privilege an annual license tax equal to two percent of the gross receipts received from such telegrams and telegraphic communications of any kind.

(d) All persons furnishing water for domestic and commercial consumption shall pay for the privilege an annual license tax of one-half of one percent of the gross receipts from any one or more of such businesses.

Section 4. That sections 1 and 2 of this ordinance shall be deemed to be enacted on the date of the final passage of this ordinance, but shall not be effective until the date of the first meter reading of each consumer=s meter, by such consumer=s service provider, after December 31, 2000.

Section 5. That section 3 of this ordinance shall be effective (a) on January 1, 2001, as to persons first furnishing, heat, light or power by means of electric current or gas in the city on or after January 1, 2001, and (b) on January 1, 2002, as to persons furnishing, heat, light or power by means of electric current or gas in the city prior to January 1, 2001.

Section 6. That on or before October 31, 2000, the city clerk shall forthwith provide written notice of the passage of this ordinance, by certified mail, to the registered agents of the service providers and other persons required to collect the taxes imposed by this ordinance.

KERRY J. DONLEY
Mayor

Final Passage: October 14, 2000

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