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**CITY OF AURORA, ILLINOIS**  
**ORDINANCE NO. 097-108**  
**DATE OF PASSAGE November 25, 1997**

**AN ORDINANCE AMENDING CHAPTER 44  
OF THE CODE OF ORDINANCES OF  
THE CITY OF AURORA  
ENTITLED "TAXATION"  
(MUNICIPAL GAS USE TAX)**

**WHEREAS**, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

**WHEREAS**, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals and welfare; and

**WHEREAS**, in furtherance of its home rule powers, it is necessary and desirable for the City of Aurora to amend its ordinances regarding taxation by creating a municipal gas use tax.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Aurora, Illinois, as follows:

**Section One:** That Article V of Chapter 44 of the Aurora Code of Ordinances be and is hereby added as follows:

**ARTICLE V. Municipal Gas Use Tax**

**Sec. 44-61. Short Title**

The tax imposed by this article shall be known as the "Municipal Gas Use Tax" and is imposed in addition to all other taxes imposed by the city of Aurora, the state of Illinois, or any other municipal corporation or political subdivision thereof.

Sec. 44-62. Definitions

For the purpose of this article the following definitions shall apply:

- (a) "Person" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, limited liability company, municipal corporation or political subdivision of this state, or a receiver, trustee, conservator or other representative appointed by order of any court.
- (b) "Public utility" means a public utility as defined in section 3-105 of the Public Utilities Act.
- (c) "Public Utilities Act" means the Public utilities Act, as amended, Illinois Compiled Statutes, Chapter 220, Section 5/1-101, et seq.
- (d) "Retail purchaser" means any person who purchases gas in a sale at retail.
- (e) "Sale at retail" means any sale by a retailer to a person for use or consumption, and not for resale. For this purpose, the term "retailer" means any person engaged in the business of distribution, supplying, furnishing or selling gas.

Sec. 44-63 Tax

- (a) Except as otherwise provided by this article, a tax is imposed on the privilege of using or consuming gas in the city that is purchased in sale at retail at the rate of one (1) cent per therm.

- (b) The ultimate incidence of and liability for payment of the tax is on the retail purchaser, and nothing in this article shall be construed to impose a tax on the occupation of distributing, supplying, furnishing, selling or transporting gas.
- (c) The retail purchaser shall pay the tax, measured by terms of gas delivered to the retail purchaser's premises, to the public utility designated to collect the tax pursuant to Section 44-64 of this code on or before the payment due date of the public utility's bill first reflecting the tax, or directly to the city treasurer on or before the 15th day of the second month following the month in which the gas is delivered to the retail purchaser if no public utility has been designated to collect the tax pursuant to Section 44-64 or if the gas is delivered by a person other than a public utility so designated.
- (d) To prevent multiple taxation, the use of gas in the city by a retail purchaser properly subject to a tax imposed by any state or by the city or other municipality with respect to the sale at retail of such gas, whether such tax is imposed upon the retail purchaser, or upon the seller and separately charged to the retail purchaser by the seller, shall be exempt from the tax imposed by this article. For purposes of this paragraph only, any charge imposed on a retail purchaser pursuant to Section 9-221 or Section 9-222 of the Public Utilities Act with respect to a sale at retail shall be treated as a tax properly imposed on the retail purchaser by the state of Illinois or by this city or municipality.

- (e) A purchaser who purchases gas for resale and therefore does not pay the tax imposed by this article with respect to the use or consumption of the gas, but who later uses or consumes part of all of the gas, shall pay the tax directly to the city treasurer on or before the 15th day of the second month following the month in which the gas is used or consumed.
- (f) The tax shall apply to gas for which the delivery to the customer is billed by a public utility after April 1, 1998.

Sec. 44-64. Collection of tax.

- (a) The city treasurer is authorized to enter into a contract for collection of the tax imposed by this article with any public utility providing gas service in the city. The contract shall include and substantially conform with following provisions:
- (1) the public utility will collect the tax with respect to gas delivered by it to its customers as an independent contractor;
  - (2) the public utility will remit collected taxes to the city treasurer no more often than once each month;
  - (3) the public utility will be entitled to withhold from tax collections a service fee not to exceed 3% of the amounts collected and timely remitted to the city treasurer;
  - (4) the public utility will treat partial payments received from a customer as payment first to each of the items set forth on the bill of any outstanding bill and then to the tax.

(5) the obligation of the public utility to collect and remit the tax shall not apply to gas billed by the public utility to a retail purchaser prior to a date two months subsequent to the execution of such contract;

(6) the public utility shall not be liable to the city for any tax not actually collected from a retail purchaser; and

(7) such additional terms as the parties may agree upon.

(b) A public utility designated to collect the tax imposed by this chapter from its customers shall bill each customer for the tax on all gas delivered to the customer unless the customer's use or consumption is exempt from the tax pursuant to Sec. 44-63(d) of this code.

Sec. 44-65. Books and records.

(a) Every taxpayer shall keep accurate books and records, including original source documents and books of entry, denoting the activities or transactions that gave rise, or may have given rise to any tax liability or exemption under this article. All such books, and records shall, at all times during business hours, be subject to and available for inspection by the city.

(b) Every person that delivers customer-owned gas within the corporate limits of the city shall furnish to the city treasurer upon his request, all names, addresses and terms delivered with respect to such deliveries.

Sec. 44-66 - 44.80. Reserved.

**Section Two:** The City Council intends to provide rebates of the municipal gas use tax established herein to qualified disabled individuals and senior citizens through an administrative process to be established prior to April 1, 1998.

**Section Three:** That this ordinance shall be in full force and effect, and shall be controlling, upon its passage and approval.

**Section Four:** That all ordinances or parts of ordinances thereof in conflict herewith are hereby repealed to the extent of any such conflict.

**Section Five:** That any Section or provision of this ordinance that is construed to be invalid or void shall not affect the remaining Sections or provisions which shall remain in full force and effect thereafter.

PASSED by the City Council of the City of Aurora, Illinois, on November 25, 1997

AYES 6 NAYES 3

APPROVED AND SIGNED by the Mayor of the City of Aurora, Illinois, on  
November 25, 1997.

  
Mayor

ATTEST:

  
City Clerk

City of Aurora  
Law Department  
44 East Downer Place  
Aurora, IL 60507  
(630) 844-3614

F97.230

R E C O M M E N D A T I O N

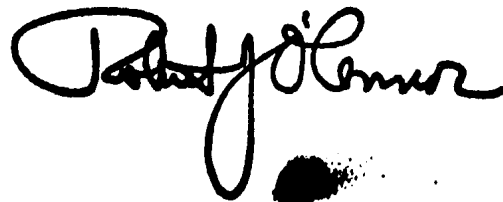
TO: THE COMMITTEE OF THE WHOLE

FROM: THE FINANCE COMMITTEE

THE FINANCE COMMITTEE AT A THEIR MEETING ON TUESDAY  
NOVEMBER 18, 1997 BUDGET MEETING RECOMMENDED FORWARDING

AN ORDINANCE AMENDING CHAPTER 44 OF THE CODE OF ORDINANCES OF THE CITY OF AURORA ENTITLED "TAXATION" (MUNICIPAL GAS USE TAX") AT 3% WITH NO RECOMMENDATION.

THE VOTE: 3-0



SUBMITTED BY:

~~CHAIRMAN ROBERT J. O'CONNOR~~  
*Michael B. Saville*

ALDERMAN MIKE SAVILLE  
*Chuck Nelson*

ALDERMAN CHUCK NELSON

ALDERMAN SCHEKETA HART-BURNS,  
ALTERNATE

DATED THIS 20TH OF NOVEMBER 1997.