



CITY OF AURORA, ILLINOIS

ORDINANCE NO. 019-111
DATE OF PASSAGE December 17, 2019

An Ordinance amending Article V of Chapter 44 of the City Code of the City of Aurora pertaining to the implementation and administration of the 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, the City has imposed a tax on privilege of using or consuming gas in the city that is purchased in sale at retail; and

WHEREAS, Article V of Chapter 44 of the City Code of the City of Aurora ("City Code") implements such tax and provides for its collection; and

WHEREAS, the City Council desires to modernize the language of Article V;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Aurora, Illinois, as follows: that Sections 44-63 and 44-64 of the City Code constituting portions of Article V of Chapter 44 of said Code shall be and hereby are amended as set forth in Exhibit A to this Ordinance; and further

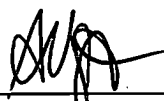
BE IT ORDAINED, that the tax imposed by Section 44-63(a) of the City Code at the rate of three (3) cents per therm previously as previously determined by O17-085 shall remain in effect until or unless changed by Ordinance.

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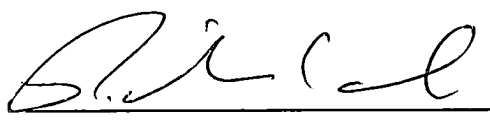
PASSED AND APPROVED ON December 17, 2019

AYES 11 NAYS 0 NOT VOTING 0 ABSENT 1

ATTEST:



City Clerk



Mayor

19-1123

RECOMMENDATION

TO: THE COMMITTEE OF THE WHOLE
FROM: THE FINANCE COMMITTEE

The Finance Committee at the regular scheduled meeting on **Thursday, December 12, 2019**
Recommended **APPROVAL** of An Ordinance amending Article V of Chapter 44 of the City
Code of the City of Aurora pertaining to the implementation and administration of the municipal
gas use tax.

Vote ~~5-0~~

4-0 AW

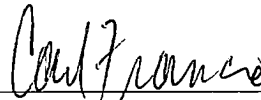
Submitted By:



Alderman Robert O'Connor, Chairperson

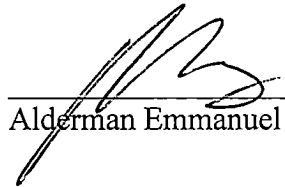


Alderman Edward Bugg, Vice Chairperson



Alderman Carl Franco

Alderman Scheketa Hart-Burns



Alderman Emmanuel Llamas

Dated this 12th day of December, 2019

1 Sec. 44-63. - Tax.

2 (a) Except as otherwise provided by this article, a tax is imposed
3 on the privilege of using or consuming gas in the city that is
4 purchased in sale at retail at the rate the city council shall
5 from time-to-time by ordinance determine ~~of one (1) cent per~~
6 ~~therm.~~

7 (b) The ultimate incidence of and liability for payment of the
8 tax is on the retail purchaser, and nothing in this article
9 shall be construed to impose a tax on the occupation of
10 distributing, supplying, furnishing, selling or transporting
11 gas.

12 (c) The retail purchaser shall pay the tax, measured by therms of
13 gas delivered to the retail purchaser's premises, to the public
14 utility designated to collect the tax pursuant to section 44-
15 64 on or before the payment due date of the public utility's
16 bill first reflecting the tax, or directly to the city treasurer
17 on or before the fifteenth day of the second month following
18 the month in which the gas is delivered to the retail purchaser
19 if no public utility has been designated to collect the tax
20 pursuant to section 44-64 below or if the gas is delivered by
21 a person other than a public utility so designated.

22 (d) Nothing in this article shall be construed to impose a tax
23 upon any person, business or activity which, under the
24 constitutions of the United States or State of Illinois, may

1 not be made the subject of taxation by the City. ~~To prevent~~
2 ~~multiple taxation, the use of gas in the city by a retail~~
3 ~~purchaser shall be exempt from the tax imposed by this article~~
4 ~~if the gross receipts from the sale at retail of such gas to~~
5 ~~the retail purchaser are properly subject to a tax imposed on~~
6 ~~the seller of such gas pursuant to any municipal utility tax~~
7 ~~authorized by section 5/8-11-2 of the Illinois Municipal Code~~
8 ~~(65 ILCS 5/8-11-2).~~

9 (e) A person purchaser who purchases gas for resale and therefore
10 does not pay the tax imposed by this article with respect to
11 the use or consumption of the gas, but who later uses or
12 consumes part or all of the gas, shall pay the tax directly to
13 the city treasurer on or before the fifteenth day of the second
14 month following the month in which the gas is used or consumed.

15 (f) The tax shall apply to gas for which the delivery to the
16 retail purchaser is billed by a Public Utility on or after
17 November 25, 1997. ~~Effective January 1, 2018, the tax imposed~~
18 ~~by section 44-63(a) of this Code shall be two (2) cents per~~
19 ~~therm. Effective January 1, 2019, the tax imposed by section~~
20 ~~44-63(a) of this Code shall be three (3) cents per therm.~~

21 (g) If it shall appear that an amount of tax has been paid which
22 was not due under the provisions of this article, whether as a
23 result of mistake of fact or an error of law, then such amount
24 shall be (i) credited against any tax due, or to become due,

1 under this article from the taxpayer who made the erroneous
2 payment or (ii) subject to a refund if no such tax is due or to
3 become due; provided that no amounts erroneously paid more than
4 three (3) years prior to the filing of a claim therefore shall
5 be so credited or refunded.

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

9 (i) Reserved.

10 (Ord. No. 097-108, § 1, 11-25-97; Ord. No. 099-24, § 1, 3-9-99;

11 Ord. No. 017-085, 1, 12-12-17)

12 Sec. 44-64. - Collection of tax.

13 (a) The city treasurer is authorized to enter into a contract for
14 collection of the tax imposed by this article with any public
15 utility providing gas service in the city. The contract shall
16 include and substantially conform with the following
17 provisions:

18 (1) The public utility will collect the tax from retail
19 purchasers ~~with respect to gas delivered by it to its~~
20 ~~customers~~ as an independent contractor.

21 (2) The public utility will remit collected taxes to the city
22 treasurer no more often than once each month.

23 (3) The public utility will be entitled to withhold from tax
24 collections a service fee equal to ~~not to exceed three (3)~~

1 percent of the amounts collected and timely remitted to the
2 city treasurer.

3 ~~(4) The public utility will treat partial payments received~~
4 ~~from a customer as payment first to each of the items set~~
5 ~~forth on the bill of any outstanding bill and then to the~~
6 ~~tax.~~

7 ~~(5) The obligation of the public utility to collect and remit~~
8 ~~the tax shall not apply to gas billed by the public utility~~
9 ~~to a retail purchaser prior to a date two (2) months~~
10 ~~subsequent to the execution of such contract.~~

11 ~~(6) The public utility shall not be liable to the city for any~~
12 ~~tax not actually collected from a retail purchaser.~~

13 ~~(5)(7) Such additional terms as the parties may agree upon.~~

14 (b) A public utility designated to collect the tax imposed by
15 this chapter from its customers shall bill each customer for
16 the tax on all gas delivered to the customer unless the
17 customer's use or consumption is exempt from the tax pursuant
18 to subsection 44-63(i)~~(d)~~ above.

19 (Ord. No. 097-108, § 1, 11-25-97)