

ORDINANCE NO. 18-035

AN ORDINANCE AMENDING CHAPTER 125, ENTITLED “UTILITY TAXES”, OF THE CITY ORDINANCES OF THE CITY OF MONMOUTH, ILLINOIS

WHEREAS, the State of Illinois has enacted Public Act 90-561, which amended the Illinois Municipal Code with regard to imposition of utility taxes; and

WHEREAS, the City of Monmouth, Illinois, a home rule municipality, desires to comply with the aforementioned revision in the Illinois Municipal Code;

NOW, TEHREFORE, BE IT ORDAINED by the City Council of the City of Monmouth, Warren County, Illinois, as follows:

Section 1:

Section 125.300, of Chapter 125 of the Monmouth Code of Ordinances, entitled “GAS USE TAX”, is hereby amended to include the following subsection:

GAS USE TAX

§ 125.300 SHORT TITLE.

The tax imposed by this subchapter shall be known as the “Gas Use Tax” and is imposed in addition to all other taxes imposed by the city.

§ 125.301 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply:

PERSON. Any individual, firm, trust, estate, partnership, association, joint stock company, joint venture, 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.

PUBLIC UTILITIES ACT. The Public Utilities Act as amended, (ILCS Ch. 220, Act 5, §§ 1-101 *et seq.*).

PUBLIC UTILITY. A public utility as defined in ILCS Ch. 220, Act 5, § 3-105 of the Public Utilities Act.

RETAIL PURCHASER. Any person who purchases gas in a **SALE AT RETAIL**.

SALE AT RETAIL. Any sale of gas 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 distributing, supplying, furnishing or selling gas

§ 125.302 IMPOSITION OF TAX

Except as otherwise provided by this subchapter, a tax is imposed on the privilege of using or consuming gas in the city that is purchased in a sale at retail at the rate of \$.015 per therm.

§ 125.303 TAX IN ADDITION TO OTHER MUNICIPAL TAXES.

(A) The tax under this subchapter shall be in addition to the payment of money, or value of products or services furnished to this city by the taxpayer as compensation for the use of its streets,

alleys, or other public places; or installation and maintenance therein, thereon or thereunder of poles, wires, pipes or other equipment used in the operation of the taxpayer's business.

(B) To prevent multiple taxation, the use of gas in the city by a retail purchaser shall be exempt from the tax imposed by this subchapter if the gross receipts from the sale at retail of such gas to the retail purchaser are properly subject to a tax imposed upon the seller of such gas pursuant to the city's gas utility tax, as amended from time to time (§ 125.100 of this chapter), authorized pursuant to § 8-11-2 of the Illinois Municipal Code (ILCS Ch. 65, Act 5, § 8-11-2).

§ 125.304 TAXPAYER'S REPORT.

(A) On or before the last day of each month, each taxpayer, in the case of the taxes imposed under this § 125.300, shall make a return to the City Administrator for the preceding month stating:

- (1) His or her name;
- (2) His or her principal place of business;
- (3) His or her gross receipts during those months upon the basis of which the tax is imposed;
- (4) Amount of tax; and
- (5) Such other reasonable and related information as the corporate authorities may require.

(B) The taxpayer making the return herein provided for shall, at the time of making such return, pay to the City Administrator the amount of tax herein imposed; provided that in connection with any return the taxpayer may, if he or she so elects, report and pay an amount based upon his or her total billings of business subject to the tax during the period for which the return is made (exclusive of any amount previously billed) with prompt adjustments of later payments based upon any differences between such billings and the taxable gross receipts.

(C) If the person delivering gas fails to collect the tax imposed under § 125.300, et. seq. , from the purchaser or is excused from collecting the tax, then the purchaser shall file the return as set forth in division (A) above and pay the tax directly to the City Administrator on or before the last day of the month following the month during which the gas is used or consumed.

(D) Every taxpayer, or purchaser under the terms of § 125.303(C), required to pay the tax imposed by this subchapter shall keep accurate books and records of its business or activity, including contemporaneous books and records denoting the transactions that give rise or may have given rise, to any tax liability under this chapter. The books and records shall be subject to and available for inspection by the city at all times during business hours.

§ 125.305 OVERPAYMENT.

If it shall appear that an amount of tax has been paid which was not due under the provisions of this subchapter as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this subchapter from the taxpayer or purchaser who made the erroneous payment, provided that, no amounts erroneously paid more than three years prior to the filing of a claim therefor shall be so credited. No action to recover any amount of tax due under the provisions of this subchapter shall be commenced more than three years after the due date of such amount.

§ 125.306 TRANSMITTAL OF TAX REVENUE.

(A) In case any person who is required under this subchapter to file a tax return to the city fails to file a return when and as required under this subchapter, such person shall pay to the city, in addition to the amount of tax required to be transmitted, a penalty of 5% of the tax that such person

is required to transmit to the city provided, however, a 20% penalty shall be imposed for any fraudulent failure to transmit such tax.

(B) In case any person who is required under this subchapter to file a tax return to the city files a return at the time required but fails to transmit the tax proceeds, or any portion thereof to the city when due, a penalty of 5% of the amount of tax not transmitted to the city shall be added thereto; provided, however, the fraudulent failure to pay such tax shall result in a 20% penalty.

(C) In addition to any penalty for which provision is made in this subchapter, any amount of tax not transmitted when due shall bear interest at the rate of 2% per month, or fraction thereof, until fully transmitted.

§ 125.307 COLLECTION.

Whenever any person shall fail to pay any tax as provided in this subchapter, the City Attorney shall, upon the request of the City Administrator, bring or cause to be brought an action to enforce the payment of such tax on behalf of the city in any court of competent jurisdiction.

Section 2:

In all other respects, Chapter 125 of the Monmouth Code of Ordinances previously enacted shall remain in full force and effect.

Section 3:

This ordinance shall be in full force and effect January 1, 2019 and after due publication in pamphlet form, passage and approval thereof as provided by law.

PASSED this ____ day of _____, A.D., 2018.

APPROVED this ____ day of _____, A.D., 2018.

MAYOR

ATTESTED:

CITY CLERK

Ayes: _____

Nays: _____

Absent or not voting: _____