



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of May 5, 2007

DATE: April 23, 2007

SUBJECT: Adopt the proposed changes to the Utility Tax Ordinance to enact a levy on electricity and natural gas for residential users based on usage over established minimum levels.

C. M. RECOMMENDATION:

Adopt the amendments to Chapter 63, of the Code of Arlington County, Virginia, to enact a residential utility tax. The residential utility tax recommended is based on energy consumption at a rate of \$0.00341 per kilowatt hour (kWh) of electricity and \$0.03 per cubic hundred feet (CCF) of natural gas, the tax not to exceed \$3.00 per month for each utility. It is also recommended that the first 400 kWh of electricity and 20 CCF of natural gas be excluded from taxation and that the funds generated be accounted for and remain in an environmental sustainability fund.

ISSUE: None

SUMMARY: As part of the FY 2008 adopted budget an environmental sustainability fund was established and a residential utility tax was proposed to fund an ongoing dedicated source of funds for County-wide environmental initiatives. The recommended residential utility tax excludes a certain level of utility usage from taxation and sets a cap on the maximum tax that will be paid per month for electricity and natural gas.

It is recommended that an electricity utility tax rate of \$0.00341 per kWh with the first 400 kWh excluded from taxation and a natural gas utility tax rate of \$0.03 per CCF with the first 20 CCF excluded from taxation. This proposal for electricity and natural gas with the \$3.00 per month maximum would generate approximately \$1.5 million in ongoing funding for county-wide environmental initiatives while imposing little or no tax on residents that use less than average amounts of electricity and natural gas.

Approximately half of all homes will pay no utility tax in a given month due to the excluded thresholds set by this proposal. The tax burden will fall on the heavier users of electricity and natural gas utilities. Homes able to reduce their energy consumption modestly will save more than the amount of the tax. Based on current electric and natural gas prices, residents can

County Manager: _____

County Attorney: _____

Staff: Mark Schwartz, Director of Finance, Department of Management and Finance
Chuck Gubisch, Budget Director, Department of Management and Finance
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substantially offset the residential utility tax amount by installing just compact fluorescent light bulbs or insulating their gas water heater.

An important component of the Environmental Sustainability Initiative is outreach and education to the public on how money can be saved by reducing energy consumption. The County will pay particular attention in its efforts to target outreach to low income residents to educate residents how money can be saved by reducing energy consumption. For all residents, lowering the consumption of energy in the home can easily offset the cost of the proposed residential utility tax.

BACKGROUND: Arlington has had a utility tax on commercial consumers of electricity and natural gas since 1989. The State allows localities to impose a utility tax on residential consumers of electricity and natural gas which can not exceed \$3.00 per month for each utility (§58.1-3814). Two jurisdictions in the region have a residential utility rate higher than the State maximum of \$3.00 per month because of the grandfathering in of a higher rate when the State capped the monthly tax to residential consumers in 1972.

Arlington County is currently the only jurisdiction in Northern Virginia that does not impose a residential utility tax. A comparison of other jurisdictions tax rates can be found in the following section.

Arlington would be the only jurisdiction that excludes first 400 kWh of electricity usage and the first 20 CCF of natural gas usage from taxation. This methodology is designed to impose a tax on the heavy users of our natural resources and provide a funding source that can be used to affect a change in the community and reduce the environmental impact of carbon dioxide in the environment.

Residential Electricity Regional Tax Comparison

	Base Fee Per Month	Per Kilowatt Charge	Maximum Tax Per Month	Excluded Usage
Falls Church	\$0.70	\$0.007535	\$5.00	0
Fairfax	\$0.56	\$0.00605	\$4.00	0
Prince William	\$1.40	\$0.01509	\$3.00	0
Loudoun	\$0.00	\$0.006804	\$2.70	0
Alexandria	\$1.12	\$0.12075	\$2.40	0
City of Fairfax	\$1.05	\$0.01136	\$2.25	0
Arlington (proposed)	\$0.00	\$0.00341	\$3.00	400 kWh

Residential Natural Gas Regional Tax Comparison

	Base Fee Per Month	Per CCF Charge	Maximum Tax Per Month	Excluded Usage
Falls Church	\$0.70	\$0.0039	\$5.00	0
Fairfax	\$0.56	\$0.05259	\$4.00	0
Prince William	\$1.60	\$0.06	\$3.00	0
Loudoun	\$0.00	\$0.63	\$2.70	0
Alexandria	\$1.28	\$0.124444	\$2.40	0
City of Fairfax	\$1.05	\$0.05709	\$2.25	0
Arlington (proposed)	\$0.00	\$0.030	\$3.00	20 CCF

The rate structures of other jurisdictions shown above require only a small amount of energy to be used in a household to trigger the maximum tax per month be paid. For example, a City of Fairfax resident would only need to consume 106 kilowatt of electricity per month or 21 CCF of natural gas per month to be billed the maximum tax. Usage of electricity and natural gas can vary widely depending on the size of a residential home, efficiency of the heating generator (e.g. furnace), weather, etc. Typical usage for electricity or natural gas in a residential detached home can easily average 775 kWh per month and 50 CCF per month, respectively. The following table shows the amount of electricity and natural gas required in each of the surrounding jurisdictions to trigger the maximum monthly tax.

	Electricity Usage Triggering Maximum Tax (kWh)	Natural Gas Usage Triggering Maximum Tax (CCF)	Maximum Tax Per Month
Falls Church	571	1,102	\$5.00
Fairfax	569	65	\$4.00
Prince William	106	23	\$3.00
Loudoun	397	4	\$2.70
Alexandria	11	9	\$2.40
City of Fairfax	106	21	\$2.25
Arlington (proposed)	1,280	120	\$3.00
Typical Monthly Usage	775	50	

FISCAL IMPACT: The revenue and expense of \$1.5 million is included in the FY 2008 budget adopted by the County Board on April 21, 2007.

ATTACHMENT I

AN ORDINANCE TO AMEND, REENACT, AND RECODIFY CHAPTER 63 (UTILITY TAX) OF ARLINGTON COUNTY CODE RELATING TO THE CREATION OF A RESIDENTIAL UTILITY TAX ON ELECTRICITY AND GAS RATES, EFFECTIVE JULY 1, 2007, BE IT ORDAINED that Chapter 63 of the Arlington County Code is amended, reenacted, and recodified as follows, effective July 1, 2007:

Chapter 63 UTILITY TAX*

§ 63-1. Definitions.

CCF means the volume of gas at standard pressure and temperature in units of one hundred (100) cubic feet.

Consumer means every person who, individually or through agents, employees, officers, representatives or permittees, makes a taxable purchase of electricity or natural gas services in this jurisdiction.

Gas utility means a public utility authorized to furnish natural gas service in Virginia.

Interruptible gas users shall mean users who receive gas service, pursuant to executed contracts, which may be interrupted by the provider of gas service under tariffs approved by the state corporation commission of Virginia.

Kilowatt hours (kWh) delivered means one thousand (1,000) 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.

Person shall include individuals, firms, partnerships, associations, corporations and combinations of individuals of whatever form and character.

Pipeline distribution company means 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 purchaser for purposes of furnishing heat or light.

Residential consumer shall mean the owner, occupant or tenant of property used primarily for residential purposes who pays for utility service in or for such property and shall include, whether or not master metered, apartment houses and other multiple-family dwellings.

Service provider means a person who delivers electricity to a consumer or a gas utility or pipeline distribution company which delivers natural gas to a consumer.

Treasurer shall mean the treasurer of Arlington County.

Used primarily shall relate to the larger portion of the use for which the utility service is furnished, and for the purposes of this chapter 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.

Utility service shall mean electric and gas service, excluding bottled gas, furnished within the boundaries of Arlington County.

(Ord. No. 89-5, 7-1-89; Ord. No. 89-9, 7-1-89; Ord. No. 00-26, 10-21-00)

§ 63-2. Levy; tax rate; rate payment.

There is hereby imposed and levied by Arlington County upon each and every consumer of a utility service a tax in the following amounts with respect to each utility service, which tax in every case shall be collected by the service provider from the consumer and shall be paid to the service provider for the use of Arlington County at the time the purchase price or such charge shall become due and payable under the agreement between the consumer and the service provider. There shall be no tax computed on bills submitted on sales of electric utility service for resale.

(a) *Electric utility consumer tax.* In accordance with Virginia Code § 58.1-3814, there is hereby levied a monthly tax on each purchase of electricity delivered to ~~non-residential~~ consumers by a service provider, classified as determined by such provider, as follows:

1. *Commercial consumers* --Such tax shall be one dollar and fifteen cents (\$1.15) plus the rate of \$0.00649 on each kWh delivered monthly to commercial consumers.
2. *Industrial consumers* --Such tax shall be one dollar and fifteen cents (\$1.15) plus the rate of \$0.01043 on each kWh delivered monthly to industrial consumers.
3. *Residential consumers*—For electricity consumption in excess of 400 kWh such tax shall be \$0.00341 on each kWh delivered monthly to residential consumers not to exceed \$3.00 per month; provided, however, in the case of any multi-family dwelling served by a master meter or meters, such tax shall be \$0.00341 on each kWh delivered monthly in excess of the number of units times 400 kWh with the tax not to exceed \$3.00 multiplied by the number of individual dwelling units served by the master meter or meters.

(b) *Local natural gas utility consumer tax.* In accordance with Virginia Code § 58.1-3814, there is hereby levied a monthly tax on each purchase of natural gas delivered to ~~non-residential~~ consumers by pipeline distribution companies and gas utilities classified by "class of consumers" as such term is defined in Virginia Code § 58.1-3814 J., as follows:

1. *Commercial and industrial consumers* --Such tax shall be \$0.845 plus the rate of \$0.06522 on each CCF delivered monthly to commercial and industrial consumers.
2. *Interruptible nonresidential consumers* --Such tax shall be four dollars and fifty cents (\$4.50) plus the rate of \$0.01187 on each CCF delivered monthly to nonresidential consumers of interruptible gas service.
3. *Residential consumers*—For natural gas consumption in excess of 20 CCF such tax shall be \$0.03 on each CCF delivered monthly to residential consumers not to exceed \$3.00 per month; provided, however, in the case of any multi-family dwelling served by a master meter or meters, such tax shall be \$0.03 on each CCF delivered monthly in excess of the number of units times 20 CCF with the tax not to exceed \$3.00 multiplied by the number of individual dwelling units served by the master meter or meters.

(Ord. No. 89-5, 7-1-89; Ord. No. 89-9, 7-1-89; Ord. No. 00-26, 10-21-00)

§ 63-3. Collection.

(a) It shall be the duty of every service provider in acting as the tax collecting medium or agency for Arlington County to collect from the purchaser for the use of Arlington County the tax hereby imposed and levied at the time of collecting the purchase price charged therefore and the taxes collected during each calendar month shall be reported and paid by each service

provider to the treasurer and the seller shall remit the amount of tax shown by said report to the treasurer on or before the last working day of the first calendar month thereafter, together with the name and address of any purchaser who has refused to pay his tax.

Such taxes shall be paid by the service provider to the treasurer, and the service provider shall act in accordance with Virginia Code § 58.1-3814, paragraphs F, G, H, and I, and Virginia Code § 58.1-2901. Any tax paid by the consumer to the service provider shall be deemed to be held in trust by such provider until remitted to the treasurer.

If any consumer fails to pay a bill issued by a service provider, including the taxes imposed by this chapter, the service provider shall follow its normal collection procedures and upon collection of the bill or any part thereof shall apportion the net amount collected between the charge for utility service and the tax and remit the tax portion to this jurisdiction.

(b) Bills shall be considered as monthly bills for the purposes of this chapter if submitted twelve (12) times per year of approximately one month each. Accordingly, the tax for a bi-monthly bill (approximately sixty (60) days) shall be determined as follows: (i) the CCF will be divided by two (2); (ii) a monthly tax will be calculated using the rates set forth above; (iii) the tax determined by (ii) shall be multiplied by two (2); (iv) the tax in (iii) may not exceed twice the monthly "maximum tax."

(Ord. No. 89-5, 7-1-89; Ord. No. 00-26, 10-21-00)

§ 63-4. Records to be kept by the seller.

Each and every seller shall keep complete records showing all purchases in Arlington County, which records shall show the price charged against each purchaser with respect to each purchase, the date of purchase, the date of payment, and the amount of tax imposed, and such records shall be kept open for inspection by the duly authorized agents of Arlington County who shall have the right, power and authority to make such copies thereof during such times as they may desire. (Ord. No. 89-5, 7-1-89)

§ 63-5. Exemptions from tax.

The United States of America, the Commonwealth of Virginia, and the political subdivisions, boards, commissions and authorities thereof, residential users and persons exempted from payment of real property taxes within Arlington County under state or federal law, are hereby exempted from the payment of tax imposed and levied by this chapter with respect to the purchase of utility services.

(Ord. No. 89-5, 7-1-89)

§ 63-6. Penalty for violation of chapter.

Any consumer of electricity or natural gas failing, refusing or neglecting to pay the tax hereby levied, and any officer, agent or employee of any seller service provider violating the provisions hereof shall, upon conviction, be subject to penalty not to exceed those prescribed by general law for a class 3 misdemeanor if the amount of tax due is one thousand dollars (\$1,000.00) or less, or a class 1 misdemeanor if the amount of the tax due is more than one thousand dollars (\$1,000.00). Each failure, refusal, neglect or violation and each day's continuance 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 ordinance.

(Ord. No. 89-5, 7-1-89; Ord. No. 00-26, 10-21-00)

§ 63-7. Effective date.

(a) The tax levied or imposed under this chapter shall become effective on the later of July 1, 1989, or on the day immediately after sixty (60) days' written notice by certified mail to the registered agent of the service provider required to collect the tax.
(Ord. No. 89-5, 7-1-89; Ord. No. 00-26, 10-21-00)

§ 63-8. Severability clause.

It is hereby declared to be the intention of the county board that the sections, paragraphs, sentences, clauses and phrases of this chapter are severable, and if any phrase, clause, sentence, paragraph or section of this chapter shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this chapter.
(Ord. No. 89-5, 7-1-89)
