

CITY OF NOKOMIS

ORDINANCE NO. 825

AN ORDINANCE AMENDING CHAPTER 36 OF THE CITY OF NOKOMIS' REVISED CODE OF ORDINANCES TO PROVIDE FOR A MUNICIPAL UTILITY TAX

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NOKOMIS as follows:

A new Article III is added to Chapter 36 of the Revised Code of Ordinance for the City of Nokomis as follows:

ARTICLE III

MUNICIPAL UTILITY TAX

36-3-1 TAX IMPOSED. A tax is imposed on all persons engaged in the following occupations or privileges:

(A) Persons engaged in the business of distributing, supplying, furnishing or selling gas for use or consumption within the City and not for resale, at the rate of five percent (5%) of the gross receipts therefrom.

(B) Persons engaged in the business of distributing, supplying, furnishing or selling electricity for use or consumption within the City and not for resale, at the rate of five percent (5%) of the gross receipts therefrom.

36-3-2 EXCEPTIONS. None of the taxes authorized by this Article may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which such business may not, under the Constitution and Statutes of the United States, be made the subject of taxation by this State or any political subdivision thereof; nor shall any person engaged in the business of distributing, supplying, furnishing or selling gas or electricity be subject to taxation under the provisions of this Section for such transactions as are or may become subject to taxation under the provisions of the "Municipal Retailers' Occupation Tax Act" authorized by 65 ILCS 5/8-11-1, nor shall any tax authorized by this Section be imposed upon any person engaged in the business unless such tax is imposed in like manner and at the same rate upon all persons engaged in businesses of the same class in the municipality, whether privately or municipally owned or operated.

36-3-3 ADDITIONAL TAXES. Such tax shall be in addition to the payment of money, or value of products or services furnished to this municipality 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 or other equipment used in the operation of the taxpayers' business.

36-3-4 DEFINITIONS. For the purposes of this Article, the following definitions shall apply:

"GROSS RECEIPTS" means the consideration received for the consideration received for distributing, supplying, furnishing or selling gas for use or consumption and not for resale, except for that consideration received from the City; and for all services rendered in connection therewith valued in money, whether received in money or otherwise, including cash, credit, services and property of every kind and material and for all services rendered therewith, and shall be determined without any deduction on account of the cost of transmitting such messages without any deduction on account of the service, product or commodity supplied, the cost of materials used, labor or service costs, or any other expenses whatsoever.

"PERSON" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, municipal corporation or political subdivision of this State, or a receiver, trustee, conservator, or other representative appointed by order of any court.

36-3-5 REPORTS TO MUNICIPALITY. On or before the last day of December 1996, each taxpayer shall make a return to the City Treasurer for the months of October and November, 1996, stating:

- (A) His name.
- (B) His principal place of business.
- (C) His gross receipts during those months upon the basis of which the tax is imposed.
- (D) Amount of tax.
- (E) Such other reasonable and related information as the corporate authorities may require.

On or before the last day of every third month thereafter, each taxpayer shall make a like return to the City Treasurer for a corresponding three (3) month period.

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

36-3-6 CREDIT FOR OVER PAYMENT. If it shall appear that an

amount of tax has been paid which was not due under the provisions of this Article, whether 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 Article from the taxpayer who made the erroneous payment; provide that no amounts erroneously paid more than three (3) 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 Article shall be commenced more than three (3) years after the due date of such amount.

36-3-7 PENALTY. Any taxpayer who fails to make a return, or who makes a fraudulent return, or who wilfully violates any other provision of this Article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) in addition, shall be liable in a civil action for the amount of tax due.

This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

Passed by the City Council of the City of Nokomis, Illinois, on the 9th day of September 1996, by the following vote:

AYES: 4 NAYS: 0 ABSENT: 0

Approved this 9th day of September 1996.

Michael F. Charnisky
Mayor

ATTEST:

Mary Jean Scheeler
City Clerk

STATE OF ILLINOIS)
COUNTY OF MONTGOMERY)

SS

CERTIFICATE

I, Mary Jean Scheller, certify that I am the duly elected and acting City Clerk of the City of Nokomis, Montgomery County, Illinois.

I further certify that on September 9, 1996, the Corporate Authorities of such municipality passed and approved Ordinance No. 825 entitled "An Ordinance Revising the City of Nokomis' Code of Ordinances to Provide for a Municipality Utility Tax" which provided by its terms that it should be published in pamphlet form. A draft copy of said Ordinance was on file for public inspection at least once a week before passage.

The pamphlet form of Ordinance No. 825, including the Ordinance and a cover sheet thereof, was prepared and posted in the City Hall commencing on Sept. 11 1996, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request to the City Clerk.

Dated at Nokomis, Illinois, this 9th day of September 1996.

Mary Jean Scheller
City Clerk