

Request for City Council Action

Date: July 28, 2015

Agenda Section: Consent Agenda		Originating Department: City Manager/Finance		
No. 5		Approved:		
Item: Ordinance Amending Title Seven (7) Chapter Five (5) of the Carbondale Revised Code as it Pertains to the Method of Collecting Taxes for the Privilege of Using Electricity				
No. 5.14				
<p>Background:</p> <p>Ameren Illinois is in the process of updating its billing records and has asked the City of Carbondale to verify properties inside the city limits that are exempt from the City’s municipal utility taxes on natural gas and electricity. The City established the utility tax on natural gas and electricity use in January 1968. The tax on electricity was amended first in August 1998 and again in August 1999. Properties owned by the Federal and local government are exempted from municipal utility taxes. However the prior ordinances have been considered as being too ambiguous by Ameren for the exemption to be added to newer properties.</p> <p>In discussions with Ameren Illinois the utility is requesting that the City provide an amendment to the 1999 ordinance specifying the exemption for properties the City of Carbondale is responsible for. This updated language will specify that the current and future properties owned or operated by the City of Carbondale be exempt from our municipal utility tax.</p> <p>The electric utility account located on South Washington Street and used by Amtrak to service the passenger trains has been and remains exempted as a part of the requested action.</p> <p>Recommended Action:</p> <p>It is recommended that the City Council adopt the Ordinance Amending Title Seven (7) Chapter Five (5) of the Carbondale Revised Code as it Pertains to the Method of Collecting Taxes for the Privilege of Using Electricity.</p>				
Engineering Approval Obtained	Finance Approval Obtained	Legal Approval Obtained	Approval Obtained	Manager's Approval Obtained
<p>Council Action: Motion by: _____ 2nd by: _____ to: _____</p>				

CITY OF CARBONDALE, ILLINOIS

ORDINANCE NO. 2015- ____

**AN ORDINANCE AMENDING TITLE SEVEN, CHAPTER FIVE OF THE
CARBONDALE REVISED CODE AS IT PERTAINS TO THE METHOD OF
COLLECTING TAXES FOR THE PRIVILEGE OF USING ELECTRICITY**

ADOPTED BY THE CITY COUNCIL

OF THE CITY OF CARBONDALE, ILLINOIS

THE 28TH DAY OF JULY, 2015

**Published in pamphlet form by authority of the City Council of the City of Carbondale,
Jackson County, Illinois, this 29th day of July, 2015.**

CERTIFICATE OF PUBLICATION

**I, Jennifer R. Sorrell, the duly qualified City Clerk of the City of Carbondale,
Illinois, and the official custodian of the records of said City, do hereby certify that this
ordinance was published in pamphlet form by authority of the City Council on the 29th day
of July, 2015.**

Jennifer R. Sorrell, City Clerk

ORDINANCE NO. 2015-____

AN ORDINANCE AMENDING TITLE SEVEN, CHAPTER FIVE OF THE CARBONDALE REVISED CODE AS IT PERTAINS TO THE METHOD OF COLLECTING TAXES FOR THE PRIVILEGE OF USING ELECTRICITY

WHEREAS, the City of Carbondale, Illinois, is a home rule unit of local government under the Illinois Constitution, 1970, Article VII, Section 6; and

WHEREAS, pursuant to Article VII, Section 6(a), of the Illinois Constitution, 1970, the City of Carbondale may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; and

WHEREAS, Title Seven of the Carbondale Revised Code regulates the Finance, Taxation and Business Affairs of the City of Carbondale; and

WHEREAS, the City of Carbondale currently imposes a kilowatt/hour tax upon all persons engaged in the business of distributing, supplying, furnishing or selling electricity for use or consumption within the corporate limits of the City, and not for resale, at rates as described in Section 7-5-2(B) of the Carbondale Revised Code; and

WHEREAS, Ameren Illinois has replaced Ameren CIPS and which now provides the blended Kilowatt/hour tax rate for the City of Carbondale; and

WHEREAS, certain City owned and other governmental properties should be exempt from the taxes established in Chapter 5 of Title 7 of the Carbondale Revised Code; and

WHEREAS, the City Council of the City of Carbondale finds that it is in the best interest of the citizens of Carbondale to revise the method in which it collects a municipal tax on electric utilities.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CARBONDALE AS FOLLOWS:

SECTION 1. That Section 7-5-1 of the Carbondale Revised Code is hereby amended to read as follows:

7-5-1: **DEFINITIONS:** For the purposes of this Chapter the following definitions shall apply:

~~CIPS: _____ Central Illinois Public Service Company d/b/a AmerenCIPS.~~

AMEREN ILLINOIS: Ameren Illinois or its successor

CITY: The City of Carbondale, Illinois.

GROSS RECEIPTS: The consideration received for the transmission of messages or for distributing, supplying, furnishing or selling gas, water, or electricity for use or consumption and not for resale as the case may be; 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 said messages without any deduction of account of the cost of the service, product or commodity supplied, the cost of the materials used, labor or service cost, or any other expenses whatsoever.

PERSON: Any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, limited liability company, Municipal corporation, the State or any of its political subdivisions, any State university created by statute, or a receiver, trustee, conservator or other representative appointed by order of any court.

PERSON MAINTAINING Any person having or maintaining within this State,

A PLACE OF BUSINESS IN THIS STATE: directly or by a subsidiary or other affiliate, an office, generation, facility, distribution facility, transmission facility, sales office or other place of business, or any employee, agent, or other representative operating within this State under the authority of the person or its subsidiary or other affiliate, irrespective of whether such place of business or agent or other representative is located in this State permanently or temporarily, or whether such person, subsidiary or other affiliate is licensed or qualified to do business in this State.

PURCHASE AT RETAIL: Any acquisition of electricity by a purchaser for purposes of use or consumption, and not for resale, but shall not include the use of electricity by a public utility, as defined in section 8-11-2 of the Illinois Municipal Code¹, directly in the generation, production, transmission, delivery or sale of electricity.

PURCHASER: Any person who uses or consumes transmitted messages, electricity, gas, or water within the corporate limits of the City of Carbondale which is acquired in a purchase at retail.

TAX COLLECTOR: A person, corporation or entity engaged in the business of the occupations or privileges as stated in section 7-5-2 of this chapter.

TRANSMITTING MESSAGES: In addition to the usual and popular meaning of person to person communication, shall include the furnishing, for a consideration, of services or facilities (whether owned or leased) or both, to persons in connection with the transmission of messages where such persons do not, in turn, receive any consideration in connection therewith, but shall not include, such furnishing of services or facilities to persons for the transmission of messages to the extent that any such services or facilities for the transmission of messages are furnished for a consideration, by such persons to other persons, for the transmission of messages. (Ord. 98-47)

SECTION 2. That Section 7-5-3 is hereby amended to read as follows:

7-5-3 EXEMPTIONS:

- A. No tax is imposed by this Chapter with respect to any transaction in interstate commerce or otherwise to the extent to which such business may not, under the Constitution or laws of the United States, be made subject to taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing or selling gas, water or electricity, or engaged in the business of transmitting messages be subject to taxation under the provisions of this Chapter for such transactions as are or may be subject to taxation under the provisions of the Municipal Retailers' Occupation Tax Act¹ authorized by the Illinois Municipal Code. (Ord. 98-47)
- B. No tax is imposed by this Chapter with respect to all current and future properties owned or operated by the City of Carbondale, the current list of which properties is set out in Exhibit "A"; and in addition, no tax is imposed on the property owned by Amtrak on South Washington Street designated with account number 7142001716.

SECTION 3. All of the remaining sections of Title 7, Chapter 5 of the Carbondale Revised Code shall remain in full force and effect.

SECTION 4. That all ordinances and parts thereof in conflict herewith are expressly repealed and are of no other force and effect.

SECTION 5. That repeal of any ordinance by this Ordinance shall not affect any rights accrued or liability incurred under said repealed ordinance to the effective date hereof. The provisions of this Ordinance insofar as they are the same or substantially the same as those of any prior ordinance, shall be construed as a continuation of said prior ordinances.

SECTION 6. That it is the intention of the City Council of the City of Carbondale that this Ordinance and every provision thereof shall be considered separable, and the invalidity of any section, clause, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

SECTION 7. That the City Council of the City of Carbondale finds that the subject matter of this Ordinance pertains to the government and affairs of the City of Carbondale and is passed pursuant to authorities granted it by State statutes and the Home Rule powers of the City of Carbondale pursuant to the provisions of Article VII, Section 6(a) of the Illinois Constitution.

SECTION 8. That this Ordinance shall take effect upon its passage, approval, recording, and publication in pamphlet form in accordance with law.

APPROVED: _____
John M. Henry, Mayor

ATTEST: _____
Jennifer R. Sorrell, City Clerk

APPROVED AS TO LEGALITY AND FORM:

P. Michael Kimmel, City Attorney

Exhibit A

City of Carbondale Exempt Electric and Gas Utility Accounts

Account Number	Customer Name	Premise Address Line 1	Premise Address Line 2	Zip Code	Service Type
132002214	City of Carbondale	E Jackson St		62901	Electric
422009711	City of Carbondale	300 S Oakland Ave,	Fire Station C'dale	62901	Gas
532003018	City of Carbondale	N Highway 51, Lift Station		62901	Electric
652002612	City of Carbondale	429 S Wall St, Fire Dept		62901	Electric
732001613	City of Carbondale	N Michaels St, City Garage		62901	Electric
752002512	City of Carbondale	610 E College St		62901	Electric
921079003	City of Carbondale	300 E Miller Ct		62901	Electric
1132007815	City of Carbondale	111 S Illinois Ave		62901	Electric
1242006519	City of Carbondale	510 N Helen St,	Misquito Abatement	62901	Electric
1652002719	City of Carbondale	429 S Wall St, Fire Station		62901	Gas
2042006816	City of Carbondale	W Sunset Dr		62901	Electric
2132005718	City of Carbondale	1325 W Chautauqua St,	Water Tower	62901	Electric
2132006815	City of Carbondale	401 S Illinois Ave		62901	Electric
2342006516	City of Carbondale	1249 W Short St,	Lift Station	62901	Electric
2732001817	City of Carbondale	W Willow St,	Willow/Michal/Storrm	62901	Electric
3032009216	City of Carbondale	E Oak St,	Sewage Lift Station	62901	Electric
3652002913	City of Carbondale	602 E College St		62901	Electric
3732001914	City of Carbondale	N Michaels St,	Maintenance Bldg	62901	Electric
3999028008	City of Carbondale Fire Trai	2201 E Walnut St,	Fire Training Ctr	62901	Electric
5142006018	City of Carbondale	N Oakland Ave,	Cmtry Maint Bldg	62901	Electric
5222006116	City of Carbondale	E Rt 13, Shooting Range		62901	Electric
5622009016	City of Carbondale	300 S Oakland Ave,	Storage Bl/Fire Dept	62901	Electric
5652002118	City of Carbondale	604 E College St		62901	Electric
115067006	City of Carbondale	200 S Illinois Ave	New City Hall	62901	Electric
6232001618	City of Carbondale	W Main St,	& Emerald/Lift Sta	62901	Electric
6452007812	City of Carbondale	S Illinois Ave,	Emerg Signal Frt T/C	62901	Electric
6822004418	City of Carbondale	1095 N Marion St,	Lift Station	62901	Electric
7142001716	AMTRAK	S Washington St, Amtrak	Overnight Svc Meter	62901	Electric
8222006319	City of Carbondale	2201 E Walnut St,	Sewage Plant	62901	Electric
8322009519	City of Carbondale	405 W Main St, Library		62901	Electric

Exhibit A

8652002311	City of Carbondale	606 E College St Unit 1/2		62901	Electric
9322009616	City of Carbondale	Walnut St,	& Oakland/Fire Sta	62901	Electric
9442000513	City of Carbondale	S Wall St, Filter Plant		62901	Electric
9652002418	City of Carbondale 145/250	608 E College St	LL #39	62901	Electric
7632001324	City of Carbondale	211 W Willow St	New Building LL#327	62901	Electric
8142007318	City of Carbondale	New Era Rd	NWWWTP	62901	Gas
28018029	City of Carbondale	401 N Glenview Dr	New Fire Station	62901	Gas
9142007415	City of Carbondale	1699 New Era Rd	NWWWTP	62901	Gas
9632001518	City of Carbondale	N Michaels St, USMS		62901	Gas
2798119014	City of Carbondale	212 W Willow St	Mes Building	62901	Gas
1633064000	City of Carbondale	501 W Washington St	Public Safety Center	62901	Gas
7652002223	City of Carbondale	606 E College St	#39	62901	Gas
7652002223	City of Carbondale	606 E College St	#39	62901	Electric
2985033038	City of Carbondale	200 S Illinois Ave	Civic Center	62901	Gas
7222006212	City of Carbondale	E Old Rte 13	SEWWTP	62901	Gas
28018001	City of Carbondale	401 N Glenview Dr	New Fire Station	62901	Electric