

ORDINANCE NO. 02-11

**AN ORDINANCE OF THE VILLAGE OF BUCKNER, FRANKLIN COUNTY, ILLINOIS
PROVIDING FOR A METHOD OF COLLECTING TAXES FOR THE PRIVILEGE OF
USING ELECTRICITY BASED UPON KILOWATT-HOUR USAGE OF INDIVIDUAL
CUSTOMERS**

**BE IT ORDAINED By the President and Board of Trustees
OF THE VILLAGE OF BUCKNER**

ELECTRICITY TAX

Sec. 1 - TAX IMPOSED. (a) A tax is imposed on all persons engaged in the following occupations or privileges:

The privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the municipality at the following rates, calculated on a monthly basis for each purchaser:

- (i) For the first 2,000 kilowatt-hours used or consumed in a month; .61 cents per kilowatt-hour
- (ii) For the next 48,000 kilowatt-hours used or consumed in a month; .40 cents per kilowatt hour
- (iii) For the next 50,000 kilowatt-hours used or consumed in a month; .36 cents per kilowatt-hour
- (iv) For the next 400,000 kilowatt-hours used or consumed in a month; .35 cents per kilowatt hour
- (v) For the next 500,000 kilowatt-hours used or consumed in a month; .34 cents per kilowatt-hour
- (vi) For the next 2,000,000 kilowatt-hours used or consumed in a month; .32 cents per kilowatt-hour
- (vii) For the next 2,000,000 kilowatt-hours used or consumed in a month; .3150 cents per kilowatt-hour
- (viii) For the next 5,000,000 kilowatt-hours used or consumed in a month; .3100 cents per kilowatt hour
- (ix) For the next 10,000,000 kilowatt-hours used or consumed in a month; .3050 cents per kilowatt hour
- (x) For all electricity used or consumed in excess of 20,000,000 kilowatt-hours in a month; .30 cents per kilowatt-hour

(b) Pursuant to 65 ILCS 5/8-11-2, the rates set forth in subsection (a) above shall be effective on May 1, 2011 for residential and nonresidential customers.

Sec. 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 the business or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State or any political sub-division hereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, or selling or transmitting gas, water; or electricity, or engaged in the business of transmitting messages, or using or consuming electricity acquired in a purchase at retail, be subject to taxation under the provisions of this Article for those transactions that are or may become subject to taxation under the provisions of the Municipal Retailers' Occupation Tax Act as authorized by 65 ILCS 5/8-11-1; nor shall any tax authorized by this Article be imposed upon any person engaged in a business or on any privilege unless the 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 municipality owned or operated, or exercising the same privilege within the municipality,

Sec. 3 ADDITIONAL TAXES. Such tax shall be in addition to other taxes levied upon the taxpayer or its business,

Sec. 4 COLLECTION. The tax authorized by this Article shall be collected from the purchaser by the person maintaining a place of business in this State who delivers the electricity to the purchaser. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and if unpaid, is recoverable in the same manner as the original charge for delivering the electricity. Any tax required to be collected pursuant to this Article and any such tax collected by a person delivering electricity shall constitute a debt owed to the municipality by such person delivering the electricity. Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering electricity shall also be authorized to add to such gross charge an amount equal to 3% of the tax to reimburse the person delivering electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the municipality upon request. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the municipality in the manner prescribed by the municipality. On or before the last day of each month, persons delivering electricity shall make a return to the City for the preceding month and shall, at the time of filing such return, pay the municipality the amount of the tax collected pursuant to this Article.

Sec. 5 REPORTS TO MUNICIPALITY. On or before the last day of each month, each taxpayer who has not paid the tax imposed by this Article to a person delivering electricity as set forth in Section 1 and who is not otherwise exempted from paying such tax shall make a return to the Village Treasurer for the preceding month stating:

- (A) His Name
- (B) His principal place of business
- (C) His gross receipts and/or kilowatt-hour usage during the month 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.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the Village of Buckner, 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.

Sec. 6 CREDIT FOR OVERPAYMENT. 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; provided 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.

Sec. 7 PENALTY. Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully 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 Five Hundred Dollars (\$500.00) and in addition, shall be liable in a civil action for the amount of tax due. (See 65 ILCS 5/8-11-2)

Sec. 8: The Village Clerk is authorized to publish this Ordinance as provided by law.

Sec. 9: This ordinance shall become effective on May 1, 2011.

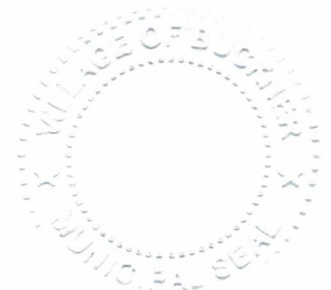
Passed this 17th day of March, 2011

Approved this 18th day of March, 2011.

Mayor

ATTEST:

Village Clerk



CERTIFICATE

I, Jeanna Easley, certify that I am the elected and acting municipal clerk of the Village of Buckner.

I further certify that on March 17, 2011, the Corporate Authorities of such Municipality passed and approved Ordinance 02-11. AN ORDINANCE REGARDING ELECTRICITY TAX, which provided by its terms that it should be published in pamphlet form.

The pamphlet for Ordinance No. 02-11 including the ordinance and a cover letter sheet thereof, was prepared, and a copy of such Ordinance is available at the Buckner Community Building (Village Hall, Main Street, Buckner, Illinois) March 18, 2011 and continuing for at least ten (10) days thereafter. Copy of such ordinance is available for public inspection upon request of the Village Clerk.

DATED at Buckner, Illinois the 18th day of March 2011.

Village Clerk

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