

**UTILITY CONSUMERS TAX ORDINANCE
OF
CARROLL COUNTY, VIRGINIA**

ORDINANCE NO. 2004-5

ARTICLE I - Title, Authority, Jurisdiction and Purpose

This ordinance shall be known as and may be cited as the “Utility Consumers Tax Ordinance of Carroll County, Virginia”, Ordinance No. 2004-5.

- 1.1 Authority. It is adopted pursuant to the authority of Section 58.1-3812, et seq., of the Code of Virginia, 1950, and amendments thereto.
- 1.2 Jurisdiction. The provisions of this ordinance shall apply to Carroll County, Virginia, including the incorporated municipalities where Utility Consumers Tax does not exist.
- 1.3 Purpose. To impose a tax on the consumers of public utility companies which do business in Carroll County, and to enlarge the County’s tax base.

ARTICLE II – Rules

- 2.1 In the construction of this ordinance, the rules contained in this section shall be observed and applied, except when the context clearly indicates otherwise.
- 2.1-1 Words used in the present tense shall include future, and words used in the singular number shall include the plural number, and the plural the singular.
- 2.1-2 The word “shall” is mandatory and not discretionary.
- 2.1-3 The word “may” is permissive and not mandatory.
- 2.1-4 The word “approved” shall be considered to be followed by the words “or disapproved”.
- 2.1-5 The masculine gender includes feminine and neuter.
- 2.1-6 Any reference to this ordinance includes all ordinances amending or supplementing the same.

ARTICLE III – Definitions

- 3.1 For the purpose of this ordinance, the following words and phrases shall have the meaning respectively ascribed by this section:
 - 3.1-1 Commercial User- The owner or tenant of property providing a service, buying or selling goods, including but not limited to the owners of apartment building and trailer courts receiving utility service through master meters, except that such term shall mean any person furnished utility service classified as “business” under tariffs filed with the State Corporation Commission.
 - 3.1-2 Industrial User- The owner or tenant of property producing a product for sale, including but not limited to manufacturing, mining and construction services, except that such term shall also mean any person furnished utility service classified as “business” under tariffs filed with the State Corporation Commission.

- 3.1-3 Person- The word “person” shall include individuals, firms, partnerships associations, corporations, and combinations of individuals of whatever form and character.
- 3.1-4 Purchaser- Every person who purchases utility services.
- 3.1-5 Residential User- The owner or tenant of any private residential property or the tenant of any multi-family residential unit which is responsible for the payment of utility services for that property, except that such term shall mean any person furnished utility service classified as “residential” under tariffs filed with the State Corporation Commission.
- 3.1-6 Seller- Any person who sells or furnishes telephone, gas, or electrical services.
- 3.1-7 Utility Service- Means local telephone service (excluding long distance charges), and electrical services provided and used within the boundaries of Carroll County, Virginia.
- 3.1-8 Mobile Local Telecommunication Service. Mobile local telecommunication service means any two-way mobile or portable local telecommunication service, including cellular mobile radio telecommunication service and specialized mobile radio.
- 3.1-9 Consumer, Gross Charge, Mobile Service Consumer, Mobile Service Provider, Service Address and Taxable Purchasers. The terms “consumer”, “gross charge”, “mobile service consumer”, “mobile service provider”, “service address”, and “taxable purchase” shall have the meanings as provided in Section 58.1-3812 of the 1950 Code of Virginia, as amended, and such definitions are incorporated herein by reference.

ARTICLE IV- Tax

- 4.1.1 There is hereby imposed and levied upon each and every purchaser of a utility service a tax in the following amounts:
 - 4.1-1 **Electricity.** On purchasers of electric services for residential purposes, the tax shall be in the amount of \$0.01140 per kilowatt hour (kwh) delivered by a service provider not to exceed a maximum of \$3.00 per month, ~~with a minimum of \$1.50.~~
 - 4.1-2 On purchasers of electricity for commercial purposes, the tax shall be in the amount of \$0.0290 per kilowatt hour (kwh) delivered by a service provider not to exceed a maximum of \$20.00 per month.
 - 4.1-3 On purchasers of electricity for industrial purposes, the tax shall be in the amount of \$0.01155 per kilowatt hour (kwh) delivered by a service provider not to exceed a maximum of \$50.00 per month.
 - 4.1-4 **Telephones.** On purchasers of telephone service for residential or commercial or industrial purposes the tax shall be in the amount of twenty per centum (20%) of the charges, exclusive of any Federal or State tax thereon, made by the seller with respect to such telephone service: provided, however, that in any case any monthly bill for residential use shall exceed fifteen dollars (\$15.00), there shall be no tax computed on so much of such bill as shall exceed fifteen dollars (\$15.00), which provides a maximum monthly levy for such purchasers of three dollars (\$3.00); and provided further that in any case any monthly bill for telephone service for commercial or industrial purposes shall exceed twenty five dollars (\$25.00), there shall be no tax on such bill as shall exceed twenty five dollars (\$25.00) which provides a maximum monthly levy of five dollars (\$5.00); provided however, no tax shall be imposed on services or equipment furnished by telephone companies subject to public utility regulations during any period in which such services or equipment are in competition with services or equipment furnished by or available from

persons other than telephone companies subject to public utility regulations. ~~Notwithstanding, the minimum monthly levy shall be \$1.50.~~

- 4.1-5 In the event that bills shall be rendered for utility services herein stated on a basis other than on month, the tax imposed hereby shall be computed pro rata as if such bill had been rendered on a monthly basis with the rates and minimums herein applied.
- 4.1-6 Each purchaser of the specified utility service shall pay the tax imposed and levied by this ordinance at the time the purchase price is paid to the seller of the utility service. In the event a purchaser makes a partial payment, the tax must be paid at the time the final portion of the purchase price is paid.
- 4.1-7 **Mobile Telecommunications.** On purchasers of mobile local telecommunications services provided by a mobile service provider or by retailers of cellular telephone service the tax shall be in the amount of ten percent (10%) of the monthly gross charge made by the seller against the purchaser with respect to each mobile local telecommunications service, which tax, in every case, shall be collected by the seller from the purchaser or consumer and shall be paid by the purchaser or consumer to the seller for the use of the County at the time that the purchase price of such charge shall become due or payable under the agreement between the purchaser or consumer and the seller; provided; however that the tax herein imposed shall not be deemed to apply to that part of the charge in excess of thirty dollars (\$30.00) per month made by any seller of such mobile local telecommunications service to any mobile service purchaser or consumer thereof. The maximum monthly levy for such purchasers shall be three dollars (\$3.00) ~~and the minimum monthly levy shall be \$1.50.~~
- 4.1-8 This tax is imposed or levied on a taxable purchase by a purchaser or consumer of such service if the purchaser or consumer has a service address within Carroll County, Virginia.

ARTICLE V- Collection of Taxes

- 5.1 It shall be the duty of every seller in acting as the tax collecting medium or agency for Carroll County to collect from the purchaser, for the use of the County the tax hereby imposed and levied at the time of collecting the purchase price charged therefor, and the taxes collected during each month or billing period shall be reported by each seller to the Commissioner of the Revenue of Carroll County and each seller shall remit the amount of tax shown by this report to have been collected to the Carroll County Treasurer on or before the last day of the first calendar month thereafter, together with the name and address, of any purchaser who has refused to pay his tax.
- 5.2 In all cases where the seller collects the price for utility service in stated periods, the tax imposed and levied by this ordinance shall be computed on the amount of purchase during the month to each bill rendered, provided, the amount of tax to be collected shall be the nearest whole cent to the amount computed.
- 5.3 The Treasurer of Carroll County will be charged with the power and duty of collecting the taxes imposed and levied under this ordinance.
- 5.4 The Commissioner of the Revenue shall prescribe forms for filing of any report or the payment of any funds set forth in this ordinance.
- 5.5 If any person whose duty it is to do so shall fail or refuse to make the report or remit the tax required by this ordinance within the time and in the amount required, there shall be added to the amount of tax due, a penalty in the amount of ten percent (10%) of the tax, plus interest thereon at the judgment rate, which shall be computed on the tax and penalty from the date such were due and payable.

ARTICLE VI – Records to be Kept by Seller

- 6.1 Each seller shall keep complete records showing all purchasers in Carroll County, which records shall show the price charged against each purchaser with respect to each purchase, the date thereof and the date of payment thereof, and the amount of tax imposed hereunder and such records shall be kept open for inspection by the duly authorized agents of Carroll County during regular business hours or business hours or business days, and the duly authorized agents of Carroll County shall have the right, power and authority to make such transcripts thereof during such times as they may desire.
- 6.2 If any seller shall maintain its records at a location other than within Carroll County, Virginia, such seller's custodian shall, upon request of the Commissioner of the Revenue, and within ten (10) days thereafter, personally appear before the Commissioner of the Revenue, make available the records specified above, either in written or magnetic form, and respond to proper inquiries from the Commissioner of the Revenue.

ARTICLE VII – Exemptions

- 7.1 The United States of America, the Commonwealth of Virginia, and the political subdivisions, boards, commissions and authorities thereof are hereby exempt from the payment of the tax imposed and levied by this ordinance with regard to the purchase of utility services used by such governmental agencies. All volunteer fire departments, volunteer rescue squads, civic clubs and all organizations exempt under Section 58.1-3600, et seq. of the Code of Virginia are exempt from the payment of the tax imposed and levied by this ordinance. It shall be the responsibility of the County to determine which purchasers are exempt of the tax and furnish such information to the seller.

ARTICLE VIII – Penalties

- 8.1 Any purchaser failing, refusing or neglecting to pay the tax imposed or levied by this ordinance and any seller violating the provisions of this ordinance and any officer, agent or employee of the seller violating the provisions of this ordinance shall be guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500). Each failure, neglect, refusal or violation and each day's continuance thereof shall constitute a separate offense. Such conviction shall not relieve any person from the payment, collection, and remittance of such tax provided in this ordinance.

ARTICLE IX – Legal Status Provisions

- 9.1 Certified Copies of Ordinance. Certified copies of this ordinance and all amendments thereto shall be filed in the offices of the County Administrator, the Commissioner of the Revenue, the Treasurer, and the Clerk of the Circuit Court of Carroll County, Virginia.
- 9.2 Validity. If any section, subsection, or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of this ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.
- 9.3 Conflicting Ordinances; Repeal of Utility Tax Ordinance. All ordinances or portions of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of

their conflict. This ordinance hereby repeals and replaces the "Carroll County Utility Tax Ordinance" contained in the Code of Carroll County, Chapter 116, Article VIII.

- 9.4 Effective Date. This ordinance was duly considered following a required public hearing held on September 8, 2004 and was adopted by the Board of Supervisors of Carroll County, Virginia at its regular meeting held on October 13, 2004, the members voting as follows:

<u>NAME</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSENT</u>
Glenna Myers			
L.J. Jones			
Sharon Nichols			
Joseph H. Early III			
Brian Spencer			
Jeff Evans			

This Ordinance shall become effective on 12:01 a.m. on January 1, 2005.

Chairman:

Glenna Myers

Attest:

Ronald Newman, Clerk

COUNTY OF CARROLL
TRANSMITTAL FORM FOR PAYMENT OF
UTILITY CONSUMERS TAX FOR CARROLL COUNTY, VIRGINIA

UTILITY COMPANY _____

ADDRESS _____

REPORTING PERIOD (Month & Year) _____

Residential Users

1. Total charges (excluding exempt) \$ _____
Number of customers _____
2. **10% penalty for late filing if applicable** \$ _____
3. **Total tax for items 1 and 2** \$ _____

Business Users

Commercial and Business

4. Total commercial charges (excluding exempt) \$ _____
5. Total industrial charges (excluding exempt) \$ _____
Number of customers _____
6. **10% penalty for late filing if applicable** \$ _____
7. **Total tax for items 5 and 6** \$ _____
8. **TOTAL TAX REMITTED** (item 3 plus 7) \$ _____

I hereby swear and affirm that the above report and financial figures are true and correct to the best of my knowledge and belief.

_____ **Date** _____ **(Authorized Signature)**

THIS TAX IS DUE AND PAYABLE ON OR BEFORE THE LAST DAY OF THE FIRST CALENDAR MONTH THEREAFTER. PLEASE REFER TO ORDINANCE NO. 2000-5 FOR RATES.

TRANSMITTAL FORM TO: COMMISSIONER OF THE REVENUE
605-1 Pine Street
Hillsville, VA 24343

REMITTANCE AND COPY OF TRANSMITTAL FORM TO: TREASURER OF CARROLL COUNTY
605-1 Pine Street
Hillsville, VA 24343