

## ARTICLE 745

### Business and Occupation Tax

EDITOR'S NOTE: Pursuant to Ordinance 1990-05, passed June 12, 1990, the Town adopted and reenacts the existing Business and Occupation Tax.

<p><b>745.01</b> Definitions.</p> <p><b>745.02</b> Authority to levy.</p> <p><b>745.03</b> Records required to be kept by taxpayer.</p> <p><b>745.04</b> Schedule of payment; form of return.</p> <p><b>745.05</b> Returns and amount of payment confidential.</p> <p><b>745.055</b> Penalties for unlawful disclosure of information.</p> <p><b>745.06</b> Failure to make return; incomplete or erroneous return.</p> <p><b>745.07</b> Appeals, correction of assessments.</p> <p><b>745.08</b> Payment, generally; receipts; accountability.</p> <p><b>745.09</b> Tax cumulative.</p> <p><b>745.10</b> Penalty for default.</p> <p><b>745.11</b> Collection by suit.</p> <p><b>745.12</b> Tax liens.</p> <p><b>745.13</b> Recordation of certificate of assessment; release of lien.</p> <p><b>745.14</b> Collection by distraint.</p> <p><b>745.15</b> Payment prerequisite to final settlement with Town contractor.</p>	<p><b>745.16</b> Prohibited acts.</p> <p><b>745.17</b> Administration.</p> <p><b>745.18</b> Exemptions.</p> <p><b>745.19</b> Assessment limited to subjects taxed by state.</p> <p><b>745.20</b> Use of gross income in computing tax.</p> <p><b>745.21</b> Determining value of goods.</p> <p><b>745.22</b> Value of goods transferred between affiliates.</p> <p><b>745.23</b> Erroneous computation.</p> <p><b>745.24</b> Production of coal and other natural resource products.</p> <p><b>745.25</b> Manufactured or compounded products.</p> <p><b>745.26</b> Business of selling tangible property; exemptions.</p> <p><b>745.27</b> Business of contracting.</p> <p><b>745.28</b> Business of operating amusements.</p> <p><b>745.29</b> Business of furnishing property for hire, lease, etc.</p> <p><b>745.30</b> Small loan business.</p> <p><b>745.31</b> Service business or calling not otherwise specifically taxed.</p> <p><b>745.32</b> Banking and other financial business.</p> <p><b>745.33</b> Public service or utility business.</p> <p><b>745.34</b> Yard sale.</p>
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#### CROSS REFERENCES

Authority to tax - see W.Va. Code 8-13-5

Business and occupation tax - see W.Va. Code Art. 11-13

Collection of taxes - see W.Va. Code 8-13-15 et seq.

**745.01 DEFINITIONS.**

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (a) "Business" means all activities engaged in or caused to be engaged in with the object of gain or economic benefit, either direct or indirect. The production of raw materials or manufactured products, which are used or consumed in the main business, shall be deemed business engaged in, taxable in the class in which it falls.
- (b) "Collector" means the City Recorder.
- (c) "Contracting" means the furnishing of work, or both materials and work, in the fulfillment of a contract for the construction, alteration, repair, decoration or improvement of a new or existing building or structure or any part thereof, or for the alteration, improvement or development of real property.
- (d) "Gross income generally" means the gross receipts of the taxpayer received as compensation for personal services and the gross receipts of the taxpayer derived from trade, business, commerce or sales and the value proceeding or accruing from the sale of tangible property, real or personal, or service, or both, and all receipts by reason of the investment of the capital of the business engaged in, including interest, discount, rentals, royalties, fees or other emoluments however designated and without any deductions on account of the cost of property sold, the cost of material used, labor costs, taxes, royalties, interest or discount paid or any other expense whatsoever.
- (e) "Gross proceeds of sales" means the value, whether in money or other property, actually proceeding from the sale of tangible property without any deduction on account of the cost of property sold or expenses of any kind. The words "gross income" and "gross proceeds of sales" shall not be construed to include cash discounts allowed and taken on sales, the proceeds of sales of goods, wares or merchandise returned by customers when the sale price is refunded either in cash or by credit or the sale price of any article accepted as part payment on any new article sold, if the full sale price of the new article is included in the "gross income" or "gross proceeds of sales".
- (f) "Sale", "sales" or "selling" means any transfer of the ownership of, or title to property whether for money or in exchange for other property.
- (g) "Selling at wholesale" or "wholesale sales" means sales of any tangible personal property for the purpose of resale in the form of tangible personal property and sales of machinery and supplies or materials which are to be directly consumed or used by the purchaser in the conduct of any business or activity which is subject to the tax imposed by this article and sales of any tangible personal property to the United States of America, its agencies and instrumentalities, or to the State, its institutions or political subdivisions.
- (h) "Service business or calling" means all activities engaged in for other persons for a consideration, which involve the rendering of a service as distinguished from the production or sale of tangible property, but shall not include the services rendered by an employee to his employer.

- (i) "Taxpayer" means any person liable for any tax under this article.
- (j) "Tax year" or "taxable year" means the year beginning July 1 of each calendar year and ending June 30, of each succeeding calendar year.  
(Passed 6-30-71)

#### **745.02 AUTHORITY TO LEVY.**

Pursuant to the provisions of Chapter 8, Article 13, Section 5 of the West Virginia Code, as amended, the City hereby levies, adopts and reenacts the existing annual City business and occupation or privilege tax on the business activities and occupations set forth in this article in accordance with the plenary power and authority granted to the City under provisions of the West Virginia Code.

(Passed 3-26-91)

#### **745.03 RECORDS REQUIRED TO BE KEPT BY TAXPAYER.**

A separate and complete record of the business of the taxpayer conducted within the Town shall be kept at his place of business, and shall not be combined or confused with records or business carried on at other places. The Recorder may require the preservation for a period not exceeding five years.

(Passed 6-30-71)

#### **745.04 SCHEDULE OF PAYMENT; FORM OF RETURN.**

The taxes levied under this article shall be payable in quarterly installments on or before the expiration of thirty days from the end of the quarter in which they accrue. The taxpayer shall, within thirty days from the expiration of each quarter, make out a return upon a form prescribed by the Recorder, showing the gross proceeds of sales or gross income of business, trade or calling and compute the amount of tax for which he is liable for each quarter, sign the same and mail the same, together with a remittance in the form required by Section 745.08, for the amount of tax to the office of the Recorder. The Recorder may allow a taxpayer that owes less than One hundred dollars (\$100.00) quarterly to request that a yearly return be made. The Recorder, if he deems it necessary to insure payment of the tax, may require return and payment under this section for other than quarterly periods. If for any reason it is not practicable for the individual taxpayer to make the oath, the same may be made by any duly authorized agent.

(Passed 4-10-01)

#### **745.05 RETURNS AND AMOUNT OF PAYMENT CONFIDENTIAL.**

All information contained in the returns provided for in this article and the amounts under the provisions hereof shall be confidential. No officer or employee shall make known any such information for any purpose other than for the enforcement of this article and of the laws of the State and the United States of America.

(Passed 6-30-71)

#### **745.055 PENALTIES FOR UNLAWFUL DISCLOSURE OF INFORMATION.**

- (a) Any officer, employee, or agent of the Town or any former officer, employee, or agent of the Town who shall divulge facts or information obtained from returns or tax statements other than for the purpose of administering such tax shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than one thousand dollars (\$ 1,000.00) or imprisonment for not more than one year, or both, together with costs of prosecution.

(b) Any officer, employee, or agent of the Town or any former officer, employee, or agent of the Town who shall make unauthorized disclosure of information received from the State Tax Commissioner under authority of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than one thousand dollars (\$ 1,000.00) or imprisonment for not more than one year, or both, together with costs of prosecution.

(c) For the purpose of this code, "unauthorized" means the release to any person of any tax information obtained by the Town from the State Tax Commissioner unless:

- (1) The person receiving the information is the authorized counsel of the State or Town and shall be using the information only for the purpose of administering business and occupation tax, sales from single location businesses, or liquor sales tax; or
- (2) The person who filed the return has authorized, in writing, its release, thereby waiving his right to secrecy.  
(Passed 11-10-92)

**745.06 FAILURE TO MAKE RETURN; INCOMPLETE OR ERRONEOUS RETURN.**

(a) If any person fails or refuses to make a return either in whole or in part, or if the Recorder has reasonable grounds to believe that any return made is incorrect or is so deficient as not to form the basis of a satisfactory assessment of the tax, he may proceed as he deems best to obtain information on which to base the assessment of the tax. The Recorder may by himself or his duly appointed agent, make examinations of the books, records and papers and audit the accounts of any such person, including bank accounts, and may take the evidence, on oath, of any person who he may believe shall be in possession of any relevant information.

(b) As soon as possible after procuring such information as he may be able to obtain as to any person making an incomplete or incorrect return, or failing or refusing to make a return, the Recorder shall proceed to assess the tax and shall notify the person assessed of the amount of the tax. The assessment of the tax by the Recorder shall be final as to any person who refused to make a return.

(Passed 6-30-71)

**745.07 APPEALS; CORRECTION OF ASSESSMENTS.**

If any person, having made a return and paid the tax as provided by this article, feels aggrieved by the assessment made upon him by the Recorder, he may apply to Council, by written petition within thirty days after notice is mailed to him by the Recorder, for a hearing and a correction of the amount of the tax so assessed upon him by the Recorder, in which petition shall be set forth the reasons why such hearings should be granted and the amount that such tax should be reduced. Council shall promptly consider such petition, and may grant such hearing or deny the same. If denied, the petitioner shall be forthwith notified thereof. If granted, Council shall notify the petitioner of the time and place fixed for such hearing. After such hearing, Council may make such order in the manner as may appear to it just and lawful and shall furnish a copy of such order to the petitioner. Any such person improperly charged with any tax and required to pay the same may recover the amount paid, together with interest, in any proper action or suit against the City. It

shall not be necessary for the taxpayer to protest against the payment of the tax or to make any demand to have the same refunded to maintain such suit. Upon presentation of a certified copy of a judgment so obtained by the petitioner, the Recorder shall issue his warrant upon any funds available for the purpose.

(Passed 6-30-71)

**745.08 PAYMENT GENERALLY; RECEIPTS; ACCOUNTABILITY.**

All remittances of taxes imposed by this article shall be made to the Recorder by bank draft, certified check, cashier's check, money order or certificate of deposit. The Recorder shall issue his receipts therefore to the taxpayers and the moneys shall be kept and accounted for as provided by law.

(Passed 6-30-71.)

**745.09 TAX CUMULATIVE.**

The tax imposed by this article shall be in addition to all other licenses and taxes levied by law as a condition precedent to engaging in any business, trade or calling. A person exercising a privilege taxable under this article, subject to the payment of all licenses and charges which are conditions precedent to exercising the privilege taxes, may exercise the privilege for the current tax year upon the condition that he shall pay the tax accruing under this article.

(Passed 6-30-71.)

**745.10 PENALTY FOR DEFAULT.**

A tax due and unpaid under this article shall be a debt due the City. It shall be a personal obligation of the taxpayer and shall be a lien upon all property used in the business or occupation upon which such tax is imposed; provided, that no such tax lien shall be enforceable against a purchaser, including a lien creditor, for valuable consideration without notice, unless docketed in the office of the clerk of the county court before a deed therefore to such purchaser or the lien of such creditor is delivered for record to the clerk of the county court. A penalty of five percent (5%) of the tax shall be added for any default for thirty days or less, and for each succeeding thirty days elapsing before payment there shall be an additional penalty of one percent (1%), all of which shall be secured by the lien herein provided; provided, however, that if such failure is due to reasonable cause, the Recorder may waive or remit in whole or in part these penalties.

(Passed 6-30-71)

**745.11 COLLECTION BY SUIT.**

The Recorder may, by himself or a duly appointed agent, collect taxes due and unpaid under this article, together with all accrued penalties, and for such purpose may exercise all the power authorized for the collection of taxes under this article, other ordinances of the City and the laws of the State. After delinquency shall have continued for sixty days, the Recorder may proceed, by himself or agent, in the circuit court of the county to obtain an injunction restraining the further exercise of the privilege until full payment shall have been made of all taxes and penalties due under this article. In any proceeding under this section upon judgment or decree for the plaintiff, he shall be awarded his costs.

(Passed 6-30-71.)

**745.12 TAX LIENS.**

The tax imposed by this article shall be a lien upon the property of any person subject to the provisions hereof who shall sell out his business or stock of goods or shall quit business, and such person shall be required to make the return provided for under Section 745.04 within thirty days after the date he sold out his business or stock of goods or quit business, and his successor in business shall be required to withhold a sufficient amount of the purchase money to cover the amount of such taxes due and unpaid until such time as the former owner shall produce a receipt from the Recorder showing that the taxes have been paid. If the purchaser of a business or stock of goods shall fail to withhold purchase money as above provided, and the taxes shall be due and unpaid after the thirty day period allowed, he shall be personally liable for the payment of the taxes accrued and unpaid on account of the operation of the business by the former owner.

(Passed 6-30-71.)

**745.13 RECORDATION OF CERTIFICATE OF ASSESSMENT; RELEASE OF LIEN.**

The Recorder, for the more effective collection of the tax, may file with the clerk of the county court a certified copy of an assessment of taxes under this article for recordation, which shall thereafter constitute binding notice of the lien created by this article upon all lands of the taxpayer located in the City as against all parties whose interest arose after such recordation. Upon payment of taxes delinquent under this article, the lien of which shall have been recorded, the Recorder may certify in duplicate the fact and amount of payment and the balance due, if any, and shall forward the certificates, one to the taxpayer and one to the clerk of the county court. The clerk of the county court shall record such certificate in the book in which releases are recorded. From the date that such certificate is admitted to record the land of the taxpayer in the City shall be free from any lien for taxes under this article accrued to the date that the certificate was issued.

(Passed 6-30-71.)

**745.14 COLLECTION BY DISTRAINT.**

The Recorder may distrain upon any goods, chattels or intangibles represented by negotiable evidences of indebtedness of any taxpayer delinquent under this article for the amount of all taxes and penalties accrued and unpaid hereunder.

(Passed 6-30-71.)

**745.15 PAYMENT PREREQUISITE TO FINAL SETTLEMENT WITH CITY CONTRACTOR.**

All officers and agents making contracts on behalf of the City shall withhold payment in the final settlement of such contracts until the receipt of a certificate from the Recorder to the effect that all taxes levied or accrued under this article against the contractor with respect to such contracts have been paid.

(Passed 6-30-71.)

**745.16 PROHIBITED ACTS.**

No person shall refuse to make the return provided to be made in Section 745.04, or make any false or fraudulent return or false statement in any return, with intent to defraud the City or to evade the payment of the tax, or any part thereof, imposed by this article, or for the president, vice-president, secretary or treasurer of any corporation to make or permit to be made for any corporation or association any false return, or any false statement in any return required in this article, with the intent to evade the payment of any tax hereunder.

(Passed 6-30-71)

**745.17 ADMINISTRATION.**

The administration of this article is vested in and shall be exercised by the Recorder who shall prescribe forms and reasonable rules or procedure in conformity with this article for the making of returns and for the ascertainment, assessment and collection of the taxes imposed hereunder; and the enforcement of any of the provisions of this article in any courts of the State shall be under the exclusive jurisdiction of the Recorder, who shall require the assistance of, and act through the City Attorney.

(Passed 6-30-71.)

**745.18 EXEMPTIONS.**

The following exemptions are hereby granted in computing business and occupation (B&O) tax due pursuant to this article by any person or taxpayer:

(a) Retail Liquor Sales by a Class A Freestanding Liquor Retail Outlet. Any individual or entity holding a Class A retail license and operating a Freestanding Liquor Retail Outlet within the Town limits pursuant to West Virginia Code §60-3A-1, et. seq. shall be granted a two thousand (\$2,000) annual exemption of B&O tax on retail liquor sales within Town limits.

(b) This ordinance shall be in effect upon passage.

(Passed 5-11-2010; Orig. passed 2-14-06)

**745.19 ASSESSMENT LIMITED TO SUBJECTS TAXED BY STATE.**

None of the provisions of this article shall be construed to assess the Town's business and occupation tax upon any activity, occupation or privilege that is exempt from the City's business and occupation tax under provisions of Chapter 11, Article 13, Section 25 of the West Virginia Code, as amended, or any other provisions of the West Virginia Code, nor shall the rate of the Town's tax on any particular activity, occupation or privilege exceed the maximum tax rate permitted under provisions of the West Virginia Code.

(Passed 3-26-91)

**745.20 USE OF GROSS INCOME IN COMPUTING TAX.**

Gross income included in the measure of the tax under Sections 745.24 and 745.25 shall neither be added nor deducted in computing the tax levied under the other sections of this article.

(Passed 6-30-71)

**745.21 DETERMINING VALUE OF GOODS.**

If any person liable for any tax under Sections 745.24 and 745.25 shall ship or transport his products or any part thereof out of the City without making sale of such products, the value of the products in the condition or form in which they exist immediately before transportation out of the City shall be the basis for the assessment of the tax imposed in such sections. The Recorder shall prescribe equitable and uniform rules for ascertaining such value.

(Passed 6-30-71.)

**745.22 VALUE OF GOODS TRANSFERRED BETWEEN AFFILIATES.**

In determining value as regards sales from one to another of affiliated persons, or under other circumstances where the relation between the buyer and the seller is such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale, the Recorder shall prescribe uniform and equitable rules for determining the value upon which such privilege tax shall be levied, corresponding as nearly as possible to the gross proceeds from the sale of similar products of like quality or character where no common interest exists between the buyer and seller but the circumstances and conditions are otherwise similar.

(Passed 6-30-71.)

**745.23 ERRONEOUS COMPUTATION.**

If the taxpayer shall make any error in computing the tax assessable against him, the Recorder shall correct such error or reassess the proper amount of taxes, and notify the taxpayer of his action by mailing to him promptly a copy of the corrected assessment, and any additional tax for which such taxpayer may be liable shall be paid within ten days after the receipt of such statement. If the amount already paid exceeds that which should have been paid on the basis of the tax so computed, the excess so paid shall be immediately refunded to the taxpayer upon the request of the Recorder and shall be payable out of any funds available for the purpose. The taxpayer may, at his election, apply an overpayment credit to taxes subsequently accruing hereunder.

(Passed 6-30-71)

**745.24 PRODUCTION OF COAL AND OTHER NATURAL RESOURCE PRODUCTS.**

(a) Upon every person engaging or continuing within the City in the business of producing for sale, profit, or commercial use, any natural resource products, the amount of such tax shall be equal to the value of the articles produced, as shown by the gross proceeds derived from the sale thereof by the producer, except as otherwise provided, multiplied by the respective rates as follows: Coal, three-fifths of one percent; limestone or sandstone quarried or mined, nine-tenths of one percent; oil, one and eight-tenths percent; natural gas in excess of the value of five thousand dollars (\$5,000) one and eight-tenths percent; blast furnace slag, one and eight-tenths percent; sand, gravel or other mineral product, not quarried or mined, one and eight-tenths percent; other natural resources, seventy-five one-hundredths of one percent. The measure of this tax is the value of the entire production in the City, regardless of the place of sale, or the fact that the delivery may be made to points outside the City.

(b) A person exercising privileges taxable under the other sections in this article, producing timber or other natural resource products, the production of which is taxable under this section, and using or consuming the same in this business, shall be deemed to be engaged in the business of producing natural resource products for sale, profit or commercial use, and shall be returned to make returns on account of the production of the business showing the gross proceeds or equivalent in accordance with uniform and equitable rules for determining the value upon which such privilege tax shall be levied, corresponding as nearly as possible to the gross proceeds from the sale of similar products of like quality or character by other taxpayers, which rules the Recorder shall prescribe.

(Passed 6-30-71)

**745.25 MANUFACTURED OR COMPOUNDED PRODUCTS.**

(a) Upon every person engaging or continuing within the City in the business of manufacturing, compounding, or preparing for sale, profit or commercial use, either directly or through the activity of others in whole or part, any article, substance, commodity or electric power not produced by public utilities taxable under provisions of this article, the amount of the tax to be equal to the value of the article, substance, commodities or electric power manufactured, compounded or prepared for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding or preparing the same, except as hereinafter provided, multiplied by the rate of one-third of one percent. The measure of this tax is the value of the entire product manufactured, compounded, or prepared in this City for sale, profit or commercial use, regardless of the place of sale or the fact that deliveries may be made to points outside the City.

(b) It is further provided, however, that in those instances in which the same person partially manufactures products within the City and partially manufactures such products outside the City, the measure of this tax under this section shall be that proportion of the sale price of the manufactured product that the payroll cost of manufacturing within this City bears to the entire payroll cost of manufacturing the product, or at the option of the taxpayer, the measure of his tax under this section shall be the proportion of the sales value of the articles that the cost of operations in the City bears to the full cost of manufacturer of the articles.

(Passed 9-8-92)

**745.26 BUSINESS OF SELLING TANGIBLE PROPERTY; EXCEPTIONS.**

(a) Upon every person engaging or continuing within the City in the business of selling any tangible property whatsoever, real or personal; including the sale of food and the services incident to the sale of food in hotels, restaurants, cafeterias, confectioneries and other public eating houses, excepting sales by any person engaging or continuing in the business of horticulture, agriculture or grazing, or of selling stocks, bonds or other evidences of indebtedness, there is likewise hereby levied, and shall be collected, a tax equivalent to forty-one-hundredths of one percent of the gross income of the business, except that in the case of a wholesaler or jobber, the tax shall be equal to fifteen one-hundredths of one percent of the gross income of the business. A person exercising any privilege taxable under Sections 745.24 or 745.25 and engaging in the business of selling his natural resources or manufactured products at retail in the Town shall be required to make returns of the gross proceeds of such retail sales and pay the tax imposed in this section for the privilege of engaging in the business of selling such natural resources or manufactured products at retail in the Town. But any person exercising any privilege taxable under Sections 745.24 or 745.25 and engaging in the business of selling his natural resources or manufactured products to manufacturers, wholesalers or jobbers and, in the case of limestone, sand, gravel or other mineral product, to commercial consumers, shall not be required to pay the tax imposed in this section for the privilege of selling such natural resource products or manufactured products at wholesale.

(b) Manufacturers exercising any privilege taxable under Section 745.09 shall not be required to pay the tax imposed in this section for the privilege of selling their manufactured products for delivery outside of the Town, but the gross income derived from the sale of such manufactured products out of this Town shall be included in determining the measure of the tax imposed on such manufacturer in Section 745.25.

(c) There is excepted from the provisions of this section the sale of intoxicating liquors at retail by any person, firm or corporation when such sale is subject to other taxation by the Town.

(Passed 6-30-71; 7-1-76)

#### **745.27 BUSINESS OF CONTRACTING.**

Upon every person engaging or continuing within this Town in the business of contracting, the tax shall be equal to two percent of the gross income of the business derived from contracts entered into on or after the first day of January, 2006.

(Passed 2-14-06)

#### **745.28 BUSINESS OF OPERATING AMUSEMENTS.**

Upon every person engaging or continuing within the Town in the business of operating a theatre, opera house, moving picture show, vaudeville, amusement park, dance hall, skating rink, race track, radio broadcasting station or any other place at which amusements are offered to the public, the tax shall be equal to four-tenths of one percent of the gross income of the business.

(Passed 6-30-71; 7-1-76)

#### **745.29 BUSINESS OF FURNISHING PROPERTY FOR HIRE, LEASE, ETC.**

Upon every person engaging or continuing within the Town in the business of furnishing any real or tangible personal property which has a tax situs in the Town, or any interest therein, for hire, loan, lease or otherwise whether the return be in the form of rentals, royalties, fee or otherwise, the tax shall be one percent of the gross income of any such activity. The term "tangible personal property" as used herein, shall not include money or public security.

(Passed 6-30-71; 7-1-76; 2-14-06)

#### **745.30 SMALL LOAN BUSINESS.**

Upon every person engaging or continuing within the City in the business of making loans of money, credit, goods or other things in action who, because of such activity, is required under the provisions of West Virginia Code 47-7A, to obtain a license from the Commissioner of Banking of the State, there shall be collected a tax equal to one percent of the gross income of any such business.

(Passed 6-30-71; 7-1-76)

#### **745.31 SERVICE BUSINESS OR CALLING NOT OTHERWISE SPECIFICALLY TAXED.**

Upon every person engaging or continuing within the City in any service business or calling not otherwise specifically taxed under this article, unless exempted by some provisions of this article, there is likewise hereby levied and shall be collected a tax equal to one percent of the gross income of any such business.

(Passed 6-30-71; 7-1-76.)

**745.32 BANKING AND OTHER FINANCIAL BUSINESS.**

(a) "Banking business" or "financial organization" means any bank, banking association, trust company, industrial loan company, small loan company or licensee, building and loan association, credit union, finance company, investment company, investment broker or dealer and any other similar business organization at least ninety percent (90%) of the assets of which consists of dividends, interest and other charges derived from the use of money or credit.

(b) Upon any person engaging or continuing to engage within this City, in the banking and other financial business, there is hereby levied and shall be collected taxes, on account of the business engaged in, equal to the gross income of the banking business or financial organization, banking association, trust company, industrial loan company, investment broker or dealer and any other similar business organization, one percent (1%) on the gross income.

(Passed 1-11-83)

**745.33 PUBLIC SERVICE OR UTILITY BUSINESS.**

(a) Upon any person engaging or continuing within this City, in the following public service or utility business, there is likewise hereby levied and shall be collected taxes, on account of the business engaged in, equal to the gross income of the business multiplied by the respective rates as follows:

- (1) Electric light and power companies, four percent (4%) on sales and demand charges for domestic purposes and commercial lighting and three percent (3%) on sales and demand charges for all other purposes, and except as to income received by municipally owned plants producing or purchasing electricity and distributing same; and
- (2) Natural gas companies, three percent (3%) on the gross income.

(b) The measure of this tax shall not include gross income derived from commerce between this state and other states of the United States or between this state and foreign countries. The measure of the tax under this section shall include only gross income received from the supplying of public service. The gross income of the taxpayer from any other activity shall be included in the measure of the tax imposed upon such other activity by the appropriate section or sections of this article.

(Passed 3-26-91)

**745.34 YARD SALE.**

(a) Definitions:

- (1) Sale shall mean and include all general sales, open to the public, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," "flea market," or "rummage" sale.
- (2) Personal Property shall mean property which is owned, utilized and maintained by an individual.

- (b) Sales of tangible personal property may be made at yard sales no more than four (4) times per year and last no longer than forty-eight hours each. Yard sales shall be limited in time to no more than the daylight hours and no yard sale shall be conducted on Sunday.
- (c) It shall be unlawful for any individual to sell or offer for sale, under authority granted by this Ordinance, property other than personal property.
- (d) All signs must be in the soil and on private property not fastened on any utility poles, street signs, etc., and must be taken down within twenty-four hours after the completion of the yard sale.
- (e) A penalty of not less than \$25.00, nor more than \$100.00 shall be imposed for each offense against this Ordinance.  
(Passed 8-14-01)