TITLE 10

POLICE DEPARTMENT

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SECTION 10-101 ESTABLISHMENT; PURPOSE; SUBJECT TO AUTHORITY OF THE MAYOR

The governing body of the Town of Danville in order to protect person and property within the town, to preserve law and order therein, and to enforce therein the criminal laws of this state and of this municipal code, does hereby establish the Danville Police Department, hereafter known as the municipal police department. It is also established that the municipal police department is subject to the control and authority of the mayor. The governing body shall also provide all necessary equipment to maintain such a police department.

CHAPTER 2- ORAGANIZATIONS

Section 10-201 Qualifications

All members of the municipal police department shall be residents of the state, not less than eighteen (18) nor more than sixty-five (65) years of age, of sound mind, of good moral character, and shall be required to pass any examinations the governing body may deem necessary. No person shall be barred from employment with the municipal police department because of his race, color, creed, national origin, sex, religion, or political conviction.

Section 10-202 PHYSICAL EXAMS

All applicants for positions in the municipal police department shall submit to a physical examination by a physician licensed in this state. Written certification of the applicant’s good health must be submitted to the governing body before his employment can commence.

Section 10 -203 Appointment of Police Officers

Members of the municipal police department shall be appointed by the mayor, subject to prior approval of the governing body.

Section 10-204 OATH

All members of the municipal police department, before entering upon the discharge of their duties, shall take and subscribe to an oath which shall be in the form and effect as follows:

State of West Virginia

Town of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to witness: I \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ do solemnly swear that I will support the Constitution of the United States, the Constitution of West Virginia ; and the Municipal Code of the Town of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and I will honestly and faithfully perform the duties imposed upon me under the provisions of law as a member of the municipal police department, to the best of my skill and judgment.

All such oaths shall be filed and preserved in the office of the municipal police department.

SECTION 10-205 CHIEF OF POLICE

The office of the Chief of Police is hereby established. The Chief of Police shall serve as the executive and administrative head of the municipal police department. He shall be responsible to the mayor and the governing body for the general administration of his department and shall make monthly written reports to the council concerning the conduct of his office.

He shall prepare the annual budget estimate for the police department and submit It to the governing body through the mayor. He shall see to it that all fees and other money collected by members of the police department are promptly turned over to the municipal recorder or otherwise disposed of according to law. He shall be responsible for the training, discipline, and morale of the members of the police department and for their effective and efficient performance of duty.

He may also advise the mayor and the governing body as to the appointment of additional members to the municipal police department.

SECTION 10-206 CHAIN OF COMMAND; OBEDIENCE TO ORDERS

The chain of command shall be the mayor, chief of police, and other members of the police department according to rand and seniority within rank; and all members of the police department shall faithfully obey all lawful orders of their superiors in the chain of command.

SECTION 10- 207 SPECIAL POLICE

The mayor, at his discretion and subject to the approval of the governing body, may appoint special police officers whenever the funds are available to do so. Such special police may include but are not limited to, school zones, parking lots of parking building officers. In performing their duties, special police shall be vested with the powers and duties described in Chapter 3 of this Title. They shall also be subject to the qualifications listed under Section 10-201 of this Title.

SECTION 10-208 SUSPENSION; DEMOTION; DISCHARGE; APPEAL

No member of the police department shall be removed, discharged, suspended, or reduced in rank or pay except for just cause, which shall not be religious or political, except as provided for in Chapter 8, Article 14, Section 19 of the West Virginia Code, and no such member shall be removed, discharged, suspended, or reduced in rank except as provided for the provisions in Chapter 8, Article 14, Section 20 of the W.Va. Code.

CHAPTER 3- POWERS AND DUTIES

SECTION 10-301 GENERAL POWERS AND DUTIES

The Chief of Police and any member of the municipal police department shall have all the powers, authority, rights, and privileges within the corporate limits of the municipality with regard to the rest of persons, the collection of claims, and the execution and return of any search warrant, warrant of arrest or other process, which can legally be exercised or discharged by the sheriff of the county. In order to arrest for the violation of municipal ordinances and as to all matters arise within the corporate limits and coming within the scope of his official duties, the powers of the Chief of Police and any member of the municipal police department shall extend anywhere within the county in which the municipality is located, and any such Chief of Police or member of the police department shall have the same authority of pursuit and arrest beyond his normal jurisdiction as has a sheriff.

It shall be the duty of the members of the municipal police department to enforce the criminal laws of the state within the municipality and all municipal ordinances and to cause the arrest of or arrest any offender and take him before the town court in order to be dealt with according to the law.

Members of the municipal police department shall patrol the town and its parking areas and shall assist the town court during trials. They shall also serve any legal process issued by the town court promptly. Failure of a member of the municipal police department to discharge any duty imposed by this section shall be deemed official misconduct for which he can be removed from office.

SECTION 10-302 MEMBERS OF POLICE DEPARTMENT TO WEAR UNIFORMS AND BE ARMED

The members of the municipal police department shall have the power and authority to carry a service pistol and Billy club while on duty unless otherwise expressly directed by the Chief of Police for a special assignment. All members of the police department shall also have the authority to wear such uniform and badge as the governing body may prescribe.

SECTION 10-303 DUTY OF POLICE OFFICERS TO RESPOND TO FIRE ALARMS AND ASSIST THE

FIRE DEPARTMENT

It shall be the duty of the municipal police department, as practicable, to designate certain officers to respond to fire alarms and assist the fire department in the protection of life and property of the citizens, and property of the fire department, and in controlling traffic and maintaining order.

SECTION 10-304 WHEN A POLICE OFFICER CAN MAKE AN ARREST

Unless otherwise authorized or directed by this code or applicable law, an arrest of a person by a police officer shall be made in the following cases:

1. Whenever he possesses a warrant for the arrest of the person.
2. Whenever an offense is committed, or a breach of peace is threatened in the officer’s presence by the person.
3. Whenever a felony has in fact been committed and the police officer has reasonable cause to believe the person has committed it.

SECTION 10-305 OFFICER MAY REQUIRE ASSISTANCE IN MAKING AN ARREST: PENALTY

Whenever it is reasonably necessary to effectuate an arrest, a member of the police department may request the aid of any person. It shall be unlawful for a person to willfully refuse such aid, and upon conviction shall be subject to a fine of not more than $50 dollars.

SECTION 10-306 DISPOSITION OF ARRESTED PERSONS

Unless otherwise authorized by law, when any person is arrested for an offense, he shall be brought before a court of competent jurisdiction for immediate trial or allowed to post bond. When the person is intoxicated, however, the police officer is hereby authorized to arrest him and hold him in custody until a complaint may be made before a county magistrate and a warrant issued.

SECTION 10-307 INTERFERENCE WITH OFFICER; REFUSING TO GIVE INFORMATION PENALTY

Any person who shall at any time, intercept, molest, or interfere with a member of the municipal police department, while on duty, or shall refuse upon request to give any such police officer any information possessed by him relating to any offense committed or about to be committed, shall be guilty of a misdemeanor. Provided that nothing in this section shall be construed to require a person to give information tending to incriminate himself or the husband or wife of such person.

SECTION 10-308 POLICE DEPARTMENT RECORDS

It shall be the duty of the municipal police department to keep a comprehensive and detailed record, in permanent form, showing:

1. All known or reported offenses and/or crimes committed within the corporate limits.
2. All arrests made by police officers.
3. All police investigations made and all other miscellaneous activities of the municipal police department.
4. Limitations on officers.

SECTION 10-401 PROVISIONS OF TITLE 2, CHAPTER 7 APPLY

All the provisions enumerated in Title 2; Chapter 7 of this code shall apply to all members of the municipal police departments.

SECTION 10-402 RETIRED MEMBERS NOT TO EXERCISE POLICE AUTHORITY

A member who has been or shall be retired shall not, while in retirement, exercise any of the powers conferred upon active members.

**BUSINESS AND TAXATION CODE**

**CONDIFIED ORDINANACES OF THE TOWN OF DANVILLE**

**PART EIGHT/ CHAPTER THREE-BUSINESS AND TAXATION CODE**

CHAPTER 3- Business and Occupation Taxes

8-301 Definitions

8-302 Return and Remittance by Taxpayer

8-303 Erroneous Computation

8-304 Failure to file a return: Assessment

8-305 Appeal from assessment

8-306 Tax Year/Quarter

8-307 Tax Cumulative

8-308 Tax Debt; Lien of unpaid Tax; priority of lien; penalty for nonpayment

8-309 Authority to make collection; injunction; payment by receiver

8-310 Payment when person sells or quits a business

8-311 Recordation of tax lien

8-312 Collection by distraint

8-313 Offenses

8-314 Administration of article: Qualifications, powers, and duties of treasurer

8-315 Construction of article

8-316 Penalties for unlawful disclosure of information

8-317 Chart of Fees

**8-301 DEFINITIONS**

For the purposes of this article, the following words and phrases are defined as follows:

1. “Banking business” or “financial organization” means any bank, banking association, trust company, industrial loan company, small loan company or licensee, building or loan association, savings and loan association, finance company, investment broker or dealer or any other similar business organization at least ninety percent (90%) of the assets of which consists of intangible personal property and at least ninety percent (90%) of the gross receipts of which consist of dividends, interest and other charges derived from the use of money or credit.
2. “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 term “business” shall not include a casual sale by a person who is not engaged in the business of selling the type of property involved in such casual sale. The term “business” includes the production of natural resources or manufactured products which are used or consumed by the producer or manufacturer and shall include the activities of a banking business or financial organization.
3. “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.
4. “Contractor” means any person who furnishes 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. The term “contracting” also includes the alteration, improvement, or development of real property.
5. “Gross income" means the gross receipts of the taxpayer, other than a banking or financial business, 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 rentals, royalties, fees, reimbursed costs or expenses or other emoluments, however designated, and including all interest, carrying charges, fees or other similar income, however denominated, derived by the taxpayer from repetitive carrying of accounts, in the regular course and conduct of his business, and extension of credit in connection with the sale of any tangible personal property or service, and without any deductions on account of the cost of property sold, the cost of materials used, labor costs, taxes, royalties pain in cash or in kind or otherwise, interest or discount pain or any other expenses.
6. “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.
7. “Exceptions” to the term “gross income” and “gross proceeds of sales”

Include:

1. Cash discounts allowed and taken on sales.
2. The proceeds of sales of goods, wares or merchandise returned by customers when the sale price is refunded either in cash or by credit.
3. The amount allowed as “trade-in-value” for any article accepted as part payment for any article sold.
4. Excise taxes imposed by the State
5. Money or other property received by held by a professional person for the sole use and benefit of a client or another person or money received by the taxpayer on behalf of a bank or other financial institution for the repayment of a debt of another.
6. “New Business” means a business that:
7. Has not operated or had a manufacturing facility, retail store or other business operation within the boundaries of the Town during the previous twelve (12) month period.
8. Reopens or continues a manufacturing facility, retail store or other business operation following a change in the ownership of the business such that neither the prior owner or owners, nor their immediate families or spouses of immediate family members do no continue to have an ownership interest in the ongoing business in excess of 10% of such business.
9. Opens a new manufacturing facility, store or other business operation that is in addition to any existing business operation or activity owned by the same persons or entities, but only so long as the prior business activities continues its operations or activities in the same manner as immediately prior to the opening of a new facility, store, or other business operation.
10. “Nonresident contractor” means a contractor, as previously defined, who does not maintain a business location within Boone County, West Virginia.
11. “Person” or “Company” means an individual, firm partnership, joint adventure, association, corporation, trust or any other group or combination acting as unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.
12. “Sale”, “sales” or “selling” means any transfer of the ownership of or title to property, whether for money or in exchange for other property.
13. “Selling at wholesale” or “wholesale sales” means:
14. Sales of any tangible personal property for the purpose of resale in the form of tangible personal property; and
15. Sales of machinery, 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
16. Sales of any tangible personal property to the United States of America, its agencies, and instrumentals or to the State, its institutions, or political subdivisions.
17. “Service”, “Business” or “calling” means all activities engaged in by a person for other persons for a consideration, which involve the rendering of a service, including the rendering of professional service, as distinguished from the sale of tangible property; but shall not include the services rendered by an employee to his employer. This term includes but is not limited to:
18. Persons engaged in manufacturing, compounding, or preparing for sale; profit or commercial use, articles, substances, or commodities which are owned by another or others.
19. Persons engaged as independent contractors in producing natural resource products which are owned by another or others, as personal property, immediately after such products are severed, extracted, reduced or possession and produced.
20. The repetitive carrying of accounts, in the regular course and conduct of business, and extension of credit in connection with the sale of any tangible personal property or service, except as to persons taxed pursuant to the provision of Section 737.14.
21. “Taxpayer” means any person liable for any tax under this article.
22. “Tax year” or “taxable year” means either the calendar year or the taxpayer’s fiscal year when permission is obtained from the Town Treasurer to use such fiscal year as the tax period in lieu of the calendar year.

8-302 RETURN AND REMITTANCE BY TAXPAYER

On or before thirty (30) days after the end of the fiscal year, each person liable for the payment of a tax under Section 8-301 shall make a return showing the gross proceeds of the sales or gross income of business in accordance with the provisions of this article and deduct the amounts of quarterly payments (as hereinbefore provided), if any and transmit with the report required by Section 8-301 covering the residue of the tax chargeable against him to the office of the treasurer, such return shall be verified by the oath of the taxpayer, if made by an individual, or by the oath of the president, vice president, secretary or treasurer of a corporation, if made on behalf of a corporation. If made on behalf of a partnership, joint venture, association, trust or any other group or combination acting as a unit, any individual delegated by such firm, co-partnership, joint venture, association, trust or another group or combination acting as a unit shall make the oath on behalf of the taxpayer. If for any reason it is not practicable for the individual taxpayer to take the oath, the same may be made by any duly authorized agent. The supervisor, for any good cause shown, may extend the time for making the annual return on the application of any taxpayer and grant such reasonable additional time within which to make the same as may, by him, be deemed advisable.

8-303 ERRONEOUS COMPUTATION

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

8-304 FAILURE TO MAKE A RETURN: ASSESSMENT BY TREASURER.

If any person fails or refuses to make a return, either in whole or in part, or if the treasurer has reasonable grounds to believe that any return made is so deficient as not to form the basis of a satisfactory assessment of the tax, he/she may proceed as he/she deems best to obtain information on which to base the assessment of the tax. The treasurer may him/herself or his duly appointed agent, make examination of the books, records or papers and audit the accounts of any such person, and may take evidence, administered by him/herself or his/her agent, on oath, of any person who he/she may believe shall be in possession of any relevant information. As soon as possible after procuring such information as he may be able to obtain as to any person failing or refusing to make a return, the treasurer 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 treasurer shall be final as to any person who fails or refuses to make a return.

8-305 APPEAL FROM ASSESSMENT

If any person having made a return and paid the tax as provided by this article, feels aggrieved by the assessment so made upon him/her for any years by the treasurer, he/she may apply to the council by petition, in writing, within thirty days after notice is mailed to him/her by the treasurer, for a hearing and correction of the amount of the tax so assessed upon him/her by the treasurer, in which petition shall be set forth the reason why such hearing should be granted and the amount of such tax should be reduced. The council shall promptly consider sch 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 matter as may appear to it just and lawful and shall furnish a copy of such order to the petitioner. Any 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 Town as may be authorized by law.

8-306 TAX YEAR

The assessment of taxes herein made, and the returns required therefore shall be for the calendar year ended December 31; if the taxpayer, in exercising a privilege taxable under the article, keeps the books reflecting the same on a basis other than such year, he may, with the assent of the treasurer. Make his annual returns and pay taxes for the year covering his accounting period, as shown by the method of keeping his books.

8-307 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 condition precedent to exercising the privilege taxed, may exercise the privilege taxed, may exercise the privilege for the current tax year upon the condition that he shall pay accruing taxes under this article.

8-308 TAX A DEBT: LEIN OF UNPAID TAX; PRIORITY OF LEIN; PENALTY FOR NONPAYMENT

1. A tax due and unpaid under this article shall be a debt due the Town. It shall be a personal obligation of the taxpayer and if unpaid a lien shall be placed upon the property used in the business or occupation upon which such tax is imposed, this lien shall have priority over all liens and obligations, except those due the State of West Virginia and the United States of America.
2. 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 penalty shall be secured by the lien herein provided.

8-309 AUTHORITY TO MAKE COLLECTION; INJUNTION; PAYMENT BY RECEIVER

1. The treasurer may, by him/herself, or by duly appointed agents as mentioned in Section 8-314, collect taxes due and unpaid under this article, together with all accrued penalties. After delinquency shall have continued sixty days, the treasurer may proceed when authorized by the council 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/she shall be awarded his/her cost.
2. In the event a business subject to the tax imposed by this article shall be operated in connection with a receivership or insolvency proceeding, the court under whose direction such business is operated shall, by the entry of a proper order in the cause, make a provision for the regular payment of such taxes as the same become due.

8-310 PAYMENT WHEN PERSON SELLS OUT OR QUITS BUSINESS

The tax imposed by this article shall be a lien upon the property of any person subject to the provision 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 8-302 within thirty days after the date he/she sold out his/her business or stock of goods, or quit said 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 Town showing that the taxes have been paid in full. 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 the account of the operation of the business by the former owner.

8-311 RECORDATION OF TAX LIEN

The treasurer for more effective collection of tax, may file with the clerk of the county commission/court of Boone County, a certified copy of an assessment of taxes under this article for recordation. A certificate so filed shall be recorded in the book in which similar certificates of the state are recorded or in any book provided for that purpose, and thereafter shall constitute binding notice of the lien created by this article upon all lands of the taxpayer located in the Town 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 treasurer shall 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 commission. The clerk of the county commission shall record the certificate in the book in which releases are recorded. From the date that such a certificate is admitted to record the land of the taxpayer in the Town shall be free from any lien for taxes under this article accrued to the date that the certificate was issued.

8-312 COLLECTION BY DISTRAINT

1. No person shall refuse to make the return provided to be made in Section 8-301, or to make any false or fraudulent return of false statement in any return, with intent to defraud the Town or to evade payment of taxes, or any part thereof, imposed by this article; for any person to aid or abet another in any attempt to evade the payment of the tax or any part thereof; imposed by this article; 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 tax hereunder.
2. Any person who shall knowingly swear to or verify any false or fraudulent return, or any return containing any false or fraudulent statement with the intent aforesaid, shall be guilty of the offense of false swearing, and on convention thereof, shall be punished in the manner provided by law.

8-314 ADMINISTRATION OF ARTICLE; QUALIFICATIONS, POWERS AND DUTIES OF THE TREASURER

This article shall be administered by an official who shall be known as: Treasurer of the Business and Occupation Tax Ordinance of the Town of Danville and such official has herein been referred to as treasurer.

1. The treasurer shall be a competent person for the duties of this office: he/she shall be elected as the recorder and the duties of treasurer shall be additional. The treasurer shall serve at the will and pleasure of the mayor and receive such salary as council may prescribe.
2. The treasurer shall qualify for his/her office by taking the oath of office prescribed by the Town charter, and by filing a proper bond in the penal sun of at least three thousand dollars ($3,000.00)
3. The treasurer shall perform all the duties and functions as are devolved upon him by this article as may be prescribed hereafter by council. He/she shall prescribe forms and reasonable rules of procedure in conformity with this article, subject to approval of council, for the making of returns and for the ascertainment, assessment and collection of taxes imposed hereunder. The enforcement of any of the provisions of this article in any of the courts, either state or federal, shall be under the jurisdiction of the treasurer.

8-315 CONSTRUCTION OF ARTICLE

This article based upon the so-called “gross sales and privilege tax” law enacted by the legislature of West Virginia, and it is intended that the same be construed within the light of such law, so far as the premises admit hereof.

8-316 PENALITIES FOR UNLAWFUL DISCLOSURE OF INFORMATION

1. 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.
2. 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 shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to fine of not more than one thousand dollars ($1,000.00) or imprisonment for not more than on year, or both, together with costs of prosecution.
3. For the purposes of this code “unauthorized disclosure” shall mean the release to any person of any information obtained by the Town from the State Tax Commissioner unless:
4. 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 taxes, sales tax from single location businesses, or liquor sales tax, or
5. The person who filed and return has authorized, in writing, its release, thereby waiving their right to secrecy.

8-317 CHART OF FEES

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| --- | --- | --- |
| **CLASS CODE** | **BUSINESS CLASSIFICATION** | **RATE PER $100** |
| 1 | Coal Production | .96 |
| 2 | Limestone or Sandstone Quarried or Mined | .55 |
| 3 | Oil, Blast furnace Slag | 1.08 |
| 4 | Natural Gas | 2.16 |
| 5 | Sand, Gravel, other mineral Product, not mined/quarried | 1.08 |
| 6 | Timber | .55 |
| 7 | Other Natural Resource | .71 |
| 8 | Manufactured, Compounded, or prepared for sale product | .22 |
| 9 | Retailers | .13 |
| 10 | Wholesalers | .06 |
| 11 | Public Service or utility: Bus Companies | 1.17 |
| 12 | Water Companies | 1.10 |
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| --- | --- | --- |
| 13 | Electric Power Companies | 1.07 |
| 14 | Natural Gas Companies | 1.07 |
| 15 | All other public utility business | .71 |
| 16 | Contracting | .55 |
| 17 | Banking and Other Financial Institutions | .28 |
| 18 | Amusement | .17 |
| 19 | Service and all other business | .28 |
| 20 | Rentals, Royalties or Fees | .28 |

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.

Town of Danville, West Virginia Code

Chapter 8

Finance and Taxation

Article III. Public Utility Tax

*Authority to Levy, see chapter 40; West Virginia Code 8-13-5(a). License Taxes, see B&O Tax*

Sec. 8-48 Definitions

The following words and phrases when used in this article shall, for the purpose of this article, have the following respective meanings:

1. “Persons” means individuals, firms, partnerships, associations, private or public corporations, governmental agencies or subdivisions, and combinations thereof, whatever form or character.
2. “Public utility service” means all services and tangible or personal property purchased whin this municipality from a seller operating under a public utility license or permit from the public service commission of the state, or from a seller classified as a public utility subject to the jurisdiction of the public service commission of the state, including, but not necessarily limited to; telephone service, electric service, gas service including bottled or liquid gas, motor carriers, garbage haulers, water service and sanitary sewer service, if purchased, used or consumed within the corporate limits.
3. “Purchaser” means every person who purchases, uses, or consumes a public utility service.
4. “Seller” includes every person, whether a public service corporation, a municipality or private corporation, classified as a public utility and subject to the jurisdiction of the public service commission of West Virginia, who sells, furnishes, or supplies a public utility service.
5. “User” means the owner or tenant of private residential property, or the owner or tenant of property used for commercial or industrial purposes, and every combination thereof, of every kind or description. (2-7-94).

Sec. 8-49 Imposition and levying of tax; amount of tax.

There is imposed and levied upon each and every purchaser of a public utility service an excise tax upon the privilege of purchasing, using or consuming within the corporate limits of this municipality, such public utility service. Such tax shall be in the amount of two percent of the charge (exclusive of any federal or state tax thereon) made by the seller against the purchaser with respect to each public utility service, which tax in every case shall be collected by the seller and paid by the purchaser upon the amount of each periodic statement rendered such purchaser by the seller, and shall be paid by purchaser to the seller at the time the purchase price or such charge shall become due and payable under the agreement between the purchaser and the seller. The tax imposed and levied by the Municipality. In the event the amount of the charge for any single public utility service exceeds the sum of twenty thousand dollars in any given calendar month, to any single purchase, no tax shall be imposed for such additional purchase, use or consumption in excess of the amount of the twenty thousand dollars. In the event more than one public utility shall furnish the identical public utility service to the same purchaser, such purchaser shall be entitled to group the same as a single.

TOWN OF DANVILLE, WEST VIRGINIA CODE

CHAPTER 8

FINANCE AND TAXATION

Article III. Public Utility Tax.

*Authority to Levy, see Chapter 40; West Virginia Code 8-13-5(a). License Taxes, see B&O Tax.*

Sec. 8-48 Definitions.

1. “Persons” means individuals, firms, partnerships, associations, private or public corporations, governmental agencies or subdivisions, and combinations thereof, whatever form or character.
2. “Public utility service” means all services and tangible or personal property purchased within this municipality from a seller operating under a public utility license or permit from the public service commission of the state, or from a seller classified as a public utility subject to the jurisdiction of the public service commission of the state, including, but not necessarily limited to; telephone service, electric service, gas service including bottled or liquid gas, motor carriers, garbage haulers, water service and sanitary sewer service, if purchased, used or consumed within the corporate limits.
3. “Purchaser” means every person who purchases, uses, or consumes a public utility service.
4. “Seller” includes every person, whether a public service corporation, a municipality or private corporation, classified as a public utility and subject to the jurisdiction of the public service commission of West Virginia, who sells, furnishes, or supplies a public utility service.
5. “User” means the owner or tenant of private residential property, or the owner or tenant of property used for commercial or industrial purposes, and every combination thereof, over every kind of description. (2-7-94 (part).)

SEC 8-49 Imposition and levying of tax; amount of tax.

There is imposed and levied upon each and every purchaser of a public utility service an excise tax upon the privilege of purchasing, using, or consuming within the corporate limits of this Municipality, such public utility service. Such tax shall be in the amount of two percent of the charge (exclusive of any federal or state tax thereon.) Made by the seller against the purchaser with respect to each public utility service, which tax in every case shall be collected by the seller and paid by the purchaser upon the amount of each periodic statement rendered such purchaser by the seller, and shall be paid by purchaser to the seller at the time purchase price or such charge shall become due and payable under the agreement between the purchaser and the seller. The tax imposed and levied by this Municipality. In the event the amount of the charge for any single public utility service exceeds the sum of twenty thousand dollars in any given calendar month, to any single purchase, no tax shall be imposed for such additional purchase, use or consumption in excess of the amount of the twenty thousand dollars. In the event more than one public utility shall furnish the identical public utility service to the same purchaser, such purchaser shall be entitled to group the same as a single public utility service in calculating the amount of the charges in any calendar month for the utility service.(2-7-94 (part).)

SEC 8-50 Collection; time of payment; accounting

1. It shall be the duty of every seller in acting as the tax collecting medium or agency for this municipality to collect from each purchaser for the use of this municipality the tax hereby imposed and levied at the time of collecting the purchase price charged for its public utility service, and the amount of tax actually collected during each calendar month shall be reported by each seller to this municipality and each seller remit the amount of tax shown by said report to have been collected to this municipality on or before the last day of the first calendar month following the month in which collected.
2. The seller shall also furnish the municipality with each such monthly or quarterly report the name and address of any purchaser who has failed or refused to pay the tax so imposed and levied.
3. The tax imposed and levied by this article shall apply to periodic statements rendered after May 1, 1994 for public utility service rendered subsequent to May 1, 1994, and when any such periodic statements covers public utility service rendered both before and after such date, only the portion of the charge for public utility service rendered after such date shall be subject to such tax, and the portion subject to such tax shall be such portion of the total charge as the number of days after April 30, 1994, within the period covered by such periodic statement, bear to the total number of days covered by such periodic statement.
4. The required reports shall be in the form prescribed by the official of the municipality charged with the responsibility of collecting taxes due this municipality. (2-7-94 (part). )

Sec 8-51 Records; inspections.

Each and every seller shall keep and maintain complete records showing all purchases of public utility service within corporate limits of this municipality, which records shall show the charge made against each purchaser, the date such public utility service was furnished, 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 this municipality at reasonable times, the duly authorized agents of this municipality shall have the right power and authority to make, at the expense of this municipality, such transcripts therefor, during such times as they may desire. (2-7-94 (part.)

Sec. 8-52. Nonliability of utility; refunds; rules and regulations.

1. There shall be no liability upon the seller for erroneously collecting the tax hereby imposed and levied or for erroneously failing to bill for such tax as a result of a good faith mistake on the part of the seller. When any purchaser contends that such tax is not owed by such purchaser on the ground that the public utility service was not purchase, used or consumed within the corporate limits of this municipality, the seller shall refer the question to the official of this municipality, and such seller shall thereafter collect or refrain from collecting such tax from such purchaser for such public utility service as instructed in writing to do by such officials of this municipality. Any and all claims for refunds of any such tax shall be presented to this municipality and not to the seller.
2. The official of this municipality charged with the responsibility of collecting taxes due to this municipality shall have the authority to promulgate and enforce rules and regulations necessary for the administration and enforcement of this article. (2-7-94 (part).)

Sec. 8-54 Exemptions

The tax hereby imposed and levied shall not apply to the following transactions, which transactions are hereby exempted from such tax.

1. Purchases of public utility service by the United States of America and the state of West Virginia thereof.
2. Purchases of tangible person property, such as appliances or the like, as distinguished from the public service supplied.
3. Charges for telephone services which are paid by the insertion of coins into coin-operated telephones. (2-7-94 (part).)

Sec. 8-55 Notice of utilities

The tax hereby imposed and levied shall not be effective until this municipality gives sixty days written notice by certified mail of the effective date of this article to any public utility doing business within this municipality, which is required to collect the tax imposed and levied hereby. (2-7-94 (part).)

Sec. 8-56 Severability

If any provision of this article or the application thereof, to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other provisions of or applications of this article and to this end the provisions of this article are hereby declared to be severable (2-7-94 (part).)