

Ordinance No. 07-698

**An ordinance establishing a franchise tax
on natural gas companies
operating in the City of Friend, Nebraska**

Be it ordained by the City of Friend, Nebraska:

The City of Friend, Nebraska, (hereinafter referred to as the “Municipality”) hereby establishes a franchise tax on every natural gas company and every other person, firm or corporation, their successors and assigns, owning, operating, controlling, leasing or managing a natural gas plant or system and/or generating, manufacturing, selling, distributing or transporting natural gas (hereinafter referred to, collectively, as “Energy Providers,” each, individually, an “Energy Provider”). Energy Providers shall collect from their customers located within the corporate limits of the Municipality and pay to the Municipality an amount equal to three percent (3%) of gross receipts Energy Providers derive from the sale, distribution or transportation of natural gas delivered within the present or future limits of the Municipality. Gross receipts as used herein are revenues received from the sale, distribution or transportation of natural gas, after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered. The amount paid by Energy Providers shall be in lieu of, and Energy Providers shall be exempt from, all other fees, charges, taxes or assessments which the Municipality may impose for the privilege of doing business within the Municipality, including without limitation excise taxes, [occupation taxes], licensing fees, or right-of-way permit fees, and in the event the Municipality imposes any such fees, charge, tax or assessment, the payment to be made by Energy Providers in accordance with this Ordinance shall be reduced in an amount equal to any such fee, charge, tax or assessment imposed upon the Energy Providers. Ad valorem property taxes imposed generally upon all real and personal property within the Municipality shall not be deemed to affect Energy Providers’ obligations under this Ordinance.

Energy Providers shall report and pay any amount payable under this Ordinance on an annual basis. Such payment shall be made no more than thirty (30) days following the close of the period for which payment is due. Initial and final payments shall be prorated for the portions of the periods at the beginning and end of any franchise granted by the City of Friend, Nebraska, to an Energy Provider.

Energy Providers shall list the franchise tax collected from customers as a separate item on bills for utility service issued to their customers. If at any time the Nebraska Public Utility Commission or other authority having proper jurisdiction prohibits such recovery, Energy Providers will no longer be obligated to collect and pay the franchise tax.

The Municipality shall provide copies of annexation ordinances to Energy Providers on a timely basis to ensure appropriate franchise tax collection from customers within the Municipality’s corporate limits. An Energy Provider’s obligation to collect and pay the franchise tax from customers within an annexed area shall not commence until the later: (a) of sixty (60) days after such Energy Provider’s receipt of the annexation ordinance pertaining to such area, or (b) such

time as is reasonably necessary for such Energy Provider to identify the customers in the annexed area obligated to pay the franchise tax.

The Municipality shall have access to and the right to examine, during normal business hours, such of an Energy Provider's books, receipts, files, records and documents as is necessary to verify the accuracy of payments due hereunder. If it is determined that a mistake was made in the payment of any franchise tax required hereunder, such mistake shall be corrected promptly upon discovery, such that any under-payment by an Energy Provider shall be paid within thirty (30) days of recalculation of the amount due, and any over-payment by an Energy Provider shall be deducted from the next payment of such franchise tax due by such Energy Provider to the Municipality.

Passed and approved by the City Council of the City of Friend, Nebraska on this 4th day of June, 2007.



Attest:

Debbie Gilmer
Clerk of the City of Friend, Nebraska

James W. Vande
Mayor

C E R T I F I C A T E

State of Nebraska)
)
County of Saline)

I, Debbie Gilmer, the duly qualified and acting Clerk of the City of Friend, Nebraska in said County of Saline, Nebraska, and the official custodian of the records of the said municipality, hereby certify that the foregoing is a true, correct and complete copy of Ordinance No. 07-698 read by title times and passed in the manner required by law at a meeting of the City Council, of said municipality, held on the 4th day of June, 2007, approved and signed on the 4th day of June, 2007, and recorded on the 4th day of June, 2007, as said ordinance appears from the records in my office; that the vote of the City Council of the City of Friend, Nebraska on said ordinance as cast and recorded on the records in my office was as follows:

For the Ordinance: Councilman Fricke _____
 Councilman Schrock _____
 Councilman Lawver _____
 Councilman Drake _____

Against the Ordinance: none _____

Given under my hand and the corporate seal of said municipality this 4th day of June, 2007.



Debbie Gilmer
Clerk of the City of Friend,
Nebraska