

14756942

Chancery Division Civil Cover Sheet
General Chancery Section

(12/01/20) CCCH 0623

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

KATHRYN FARMER, Individually, and as Representative of a

Plaintiff
v.
City of Chicago, an Illinois Municipal Corporation,

Defendant

Case No: 2021CH04583

CHANCERY DIVISION CIVIL COVER SHEET
GENERAL CHANCERY SECTION

A Chancery Division Civil Cover Sheet - General Chancery Section shall be filed with the initial complaint in all actions filed in the General Chancery Section of Chancery Division. The information contained herein is for administrative purposes only. Please check the box in front of the appropriate category which best characterizes your action being filed.

Only one (1) case type may be checked with this cover sheet.

- | | |
|--|---|
| 0005 <input type="checkbox"/> Administrative Review | 0017 <input type="checkbox"/> Mandamus |
| 0001 <input checked="" type="checkbox"/> Class Action | 0018 <input type="checkbox"/> Ne Exeat |
| 0002 <input type="checkbox"/> Declaratory Judgment | 0019 <input type="checkbox"/> Partition |
| 0004 <input type="checkbox"/> Injunction | 0020 <input type="checkbox"/> Quiet Title |
| | 0021 <input type="checkbox"/> Quo Warranto |
| 0007 <input type="checkbox"/> General Chancery | 0022 <input type="checkbox"/> Redemption Rights |
| 0010 <input type="checkbox"/> Accounting | 0023 <input type="checkbox"/> Reformation of a Contract |
| 0011 <input type="checkbox"/> Arbitration | 0024 <input type="checkbox"/> Rescission of a Contract |
| 0012 <input type="checkbox"/> Certiorari | 0025 <input type="checkbox"/> Specific Performance |
| 0013 <input type="checkbox"/> Dissolution of Corporation | 0026 <input type="checkbox"/> Trust Construction |
| 0014 <input type="checkbox"/> Dissolution of Partnership | 0050 <input type="checkbox"/> Internet Take Down Action (Compromising Images) |
| 0015 <input type="checkbox"/> Equitable Lien | |
| 0016 <input type="checkbox"/> Interpleader | <input type="checkbox"/> Other (specify) _____ |

☒ Atty. No.: 65814 ☐ Pro Se 99500

Atty Name: Gregory D. Hanley/Kickham Hanley PLLC

Atty. for: Plaintiffs

Address: 32121 Woodward Avenue, Suite 300

City: Royal Oak State: MI

Zip: 48073

Telephone: (248) 544-1500

Primary Email: ghanley@kickhamhanley.com

Pro Se Only: ☐ I have read and agree to the terms of the Clerk's Clerk's Office Electronic Notice Policy and choose to opt in to electronic notice from the Clerk's office for this case at this email address:

Email: _____

14756942

2120 - Served	2121 - Served	2620 - Sec. of State
2220 - Not Served	2221 - Not Served	2621 - Alias Sec of State
2320 - Served By Mail	2321 - Served By Mail	
2420 - Served By Publication	2421 - Served By Publication	
Summons - Alias Summons		(03/15/21) CCG 0001 A

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Name all Parties	
Kathryn Farmer, Individually, and as Representative of a Class of Similarly-Situated Persons and Entities,	Plaintiff(s)
v.	
City of Chicago, an Illinois Municipal Corporation,	Defendant(s)
Office of the City Clerk, 121 N. LaSalle St, Rm. #107, Chicago IL, 60602, Attn: Dept. of Law/ Service of Process,	Address of Defendant(s)

Case No. 2021CH04583

Please serve as follows (check one): ☐ Sheriff Service ☒ Certified Mail ☐ Alias

SUMMONS

To each Defendant:

You have been named a defendant in the complaint in this case, a copy of which is hereto attached. You are summoned and required to file your appearance, in the office of the clerk of this court, within 30 days after service of this summons, not counting the day of service. If you fail to do so, a judgment by default may be entered against you for the relief asked in the complaint.

THERE IS A FEE TO FILE YOUR APPEARANCE.

FILING AN APPEARANCE: Your appearance date is NOT a court date. It is the deadline for filing your appearance/answer. To file your appearance/answer **YOU DO NOT NEED TO COME TO THE COURTHOUSE, unless you are unable to eFile your appearance/answer.** You can download an Appearance form at <http://www.illinoiscourts.gov/Forms/approved/procedures/appearance.asp>. After completing and saving your Appearance form, you can electronically file (e-File) it with the circuit clerk's office.

E-FILING: E-filing is now mandatory with limited exemptions. To e-File, you must first create an account with an e-Filing service provider. Visit <http://efile.illinoiscourts.gov/service-providers.htm> to learn more and to select a service provider.

If you need additional help or have trouble e-Filing, visit <http://www.illinoiscourts.gov/faq/gethelp.asp> or talk with your local circuit clerk's office. If you cannot e-file, you may be able to get an exemption that allows you to file in-person or by mail. Ask your circuit clerk for more information or visit www.illinoislegalaid.org.

FEE WAIVER: If you are unable to pay your court fees, you can apply for a fee waiver. For information about defending yourself in a court case (including filing an appearance or fee waiver), or to apply for free legal help, go to www.illinoislegalaid.org. You can also ask your local circuit clerk's office for a fee waiver application.

COURT DATE: Your court date will be sent to your e-File email account or the email address you provided to the clerk's office. You can also call or email the clerk's office to request your next court date. You will need to provide your case number OR, if unknown, the name of the Plaintiff or Defendant. For criminal case types, you will also need to provide the Defendant's birthdate.

REMOTE APPEARANCE: You may be able to attend this court date by phone or video conference. This is called a "Remote Appearance". Call the Circuit Clerk at (312) 603-5030 or visit their website at www.cookcountyclerkofcourt.org to find out how to do this.

Contact information for each of the Clerk's Office locations is included with this summons. The Clerk's office is open Mon - Fri, 8:30 am - 4:30 pm, except for court holidays.

To the officer: (Sheriff Service)

This summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so endorsed. This summons may not be served later than thirty (30) days after its date.

9/9/2021 2:43 PM IRIS Y. MARTINEZ

☒ Atty. No.: 65814
☐ Pro Se 99500

Witness date _____

Name: Gregory D. Hanley/Kickham Hanley PLLC
 Atty. for (if applicable):
 Plaintiff

 Iris Y. Martinez, Clerk of Court
☒ Service by Certified Mail.

Address: 32121 Woodward Avenue, Suite 300
 City: Royal Oak

☐ Date of Service: _____
 (To be inserted by officer on copy left with employer or other person)

State: MI Zip: 48073

Telephone: (248) 544-1500

Primary Email: ghanley@kickhamhanley.com

Iris Y. Martinez, Clerk of the Circuit Court of Cook County, Illinois
cookcountyclerkofcourt.org

GET YOUR COURT DATE BY CALLING IN OR BY EMAIL

CALL OR SEND AN EMAIL MESSAGE to the telephone number or court date email address below for the appropriate division, district or department to request your next court date. Email your case number, or, if you do not have your case number, email the Plaintiff or Defendant's name for civil case types, or the Defendant's name and birthdate for a criminal case.

CHANCERY DIVISION

Court date EMAIL: ChanCourtDate@cookcountycourt.com

Gen. Info: (312) 603-5133

CIVIL DIVISION

Court date EMAIL: CivCourtDate@cookcountycourt.com

Gen. Info: (312) 603-5116

COUNTY DIVISION

Court date EMAIL: CntyCourtDate@cookcountycourt.com

Gen. Info: (312) 603-5710

DOMESTIC RELATIONS/CHILD SUPPORT DIVISION

Court date EMAIL: DRCourtDate@cookcountycourt.com

OR

ChildSupCourtDate@cookcountycourt.com

Gen. Info: (312) 603-6300

DOMESTIC VIOLENCE

Court date EMAIL: DVCourtDate@cookcountycourt.com

Gen. Info: (312) 325-9500

LAW DIVISION

Court date EMAIL: LawCourtDate@cookcountycourt.com

Gen. Info: (312) 603-5426

PROBATE DIVISION

Court date EMAIL: ProbCourtDate@cookcountycourt.com

Gen. Info: (312) 603-6441

ALL SUBURBAN CASE TYPES

DISTRICT 2 - SKOKIE

Court date EMAIL: D2CourtDate@cookcountycourt.com

Gen. Info: (847) 470-7250

DISTRICT 3 - ROLLING MEADOWS

Court date EMAIL: D3CourtDate@cookcountycourt.com

Gen. Info: (847) 818-3000

DISTRICT 4 - MAYWOOD

Court date EMAIL: D4CourtDate@cookcountycourt.com

Gen. Info: (708) 865-6040

DISTRICT 5 - BRIDGEVIEW

Court date EMAIL: D5CourtDate@cookcountycourt.com

Gen. Info: (708) 974-6500

DISTRICT 6 - MARKHAM

Court date EMAIL: D6CourtDate@cookcountycourt.com

Gen. Info: (708) 232-4551

FILED
9/9/2021 2:43 PM
IRIS Y. MARTINEZ
CIRCUIT CLERK
COOK COUNTY, IL
2021CH04583

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

KATHRYN FARMER, Individually,)
and as Representative of a Class of)
Similarly-Situated Persons and Entities,)
)
Plaintiff,)
)
CITY OF CHICAGO, an Illinois)
Municipal Corporation,)
)
Defendant.)

14756942

Case No. 2021CH04583
Jury Demand

COMPLAINT AND JURY DEMAND

NOW COMES Plaintiff, Kathryn Farmer (“Plaintiff”), by and through her attorneys, Kickham Hanley PLLC and Moskovic & Associates, Ltd., individually, and on behalf of a class of similarly situated persons and entities, and for her Complaint against Defendant City of Chicago (the “City”), Plaintiff demands a trial by jury and states as follows:

INTRODUCTION

1. This is an action challenging the “Water and Sewer Taxes” imposed by the City on citizens whose properties receive water and sewer service from the City. The City has extracted hundreds of millions of dollars from the payers of the Water and Sewer Taxes that it has used to finance the City’s general governmental obligations unrelated to providing water and sewer services — namely, the funding of its general municipal pension obligations. Currently, the Water and Sewer Taxes imposed and collected by the City exceed **\$200 million** per year.

2. First, the Water Taxes are unlawful taxes imposed by the City in contravention of its home rule authority and in violation of Illinois statutory law because they are sales taxes or other taxes “on the use, sale or purchase of tangible personal property based on the gross receipts from such sales or the selling or purchase price of said tangible personal property,” and thus are preempted by 65 ILCS 5/8-11-6a.

3. In addition, the Water and Sewer Taxes violate state statutes and common law principles applicable to municipal utility rates because they are diverted to purposes unrelated to providing water and sewage disposal services.

4. Therefore, the City must be enjoined from continuing to collect the Water and Sewer Taxes and must refund all Water and Sewer Taxes it has received since it began imposing the Water and Sewer Taxes in March 2017 as well as refund all Water and Sewer Taxes it receives during the pendency of this lawsuit.

JURISDICTION AND VENUE

5. Plaintiff is a water and sewer customer residing in the City who receives water and sewer service from the City, has directly paid the Water and Sewer Taxes, is a “customer” within the meaning of City Ordinance 3-80, and seeks to act as class representative for all similarly situated persons.

6. Defendant City of Chicago (the “City”) is a home rule municipality located in Cook County, Illinois.

7. Venue and jurisdiction are proper in the Cook County Circuit Court pursuant to 735 ILCS 5/2-103 because the City’s principal offices are located in Cook County and because the actions which give rise to Plaintiff’s claims occurred in Cook County.

THE CITY’S WATERWORKS SYSTEM

8. The City operates a water and sewer utility, the Chicago Waterworks System, under the statutory authority provided to it pursuant to 65 ILCS 5/11-139-1 *et seq.*

9. The City effectively holds a monopoly over water and sewer service in the City, sells water and sewer services in a proprietary, not governmental capacity, and is subject to the same rules that apply to a privately owned utility—including the requirement that utility rates be reasonable and not exorbitant. *See e.g. Village of Niles v. City of Chicago*, 82 Ill App 3d 60, 68; 37 Ill Dec 142; 401

NE2d 1235 (1980); *Austin View Civic Ass'n v City of Palos Hts*, 85 Ill App 3d 89, 94-95; 40 Ill Dec 164; 405 NE2d 1256 (1980).

10. The City's ordinances, Chapter 11-12, entitled Water Supply and Service, govern the City's operation and maintenance of its waterworks system, including determining the rates for water and sewer service. *See* Ordinance 11-12-260 *et seq.*

11. 65 ILCS 5/11-139-8 authorizes the City to establish rates for water and sewer services to the City's water and sewer customers, and imposes the express limitation that the City only "charge the inhabitants thereof a reasonable compensation for the use and service of the combined waterworks and sewage system and to establish rates for that purpose."

12. Pursuant to 65 ILCS 5/11-139-8 and governing common law, the City's water and sewer rate revenues cannot be excessive, and the charges imposed upon the City's water and sewer customers must be for the actual use of the City's water and sewer system. *See e.g. Ross v Geneva*, 43 Ill App 3d 976, 980-81; 2 Ill Dec 609; 357 NE2d 829 (1976); *Norwick v Winfield*, 81 Ill App 2d 197, 200; 225 NE2d 30 (1967).

THE CITY'S WATER AND SEWER TAXES

13. In 2016, the City was in dire financial straits due to the gross underfunding of the City's pension obligations. Actuaries for the City had reported that if the City did not increase its payments to the City's Municipal Employees' Annuity and Benefit Fund (the "Benefit Fund"), that the Benefit Fund would be out of money by 2025.

14. On September 14, 2016, the City's Council approved a tax on water and sewer usage in order to increase its payments to the Benefit Fund. As stated by the City:

The Chicago City Council and Mayor Emanuel approved a four-year phase-in of a water and sewer utility tax. The revenue from this tax will be used to make certain mandated pension payments. These mandated pension payments will support the retirements of many municipal employees, including our snow plow drivers, our librarians, and CPS non-teaching staff, such as classroom aides. *See* Exhibit A, the City's Water-Sewer Tax FAQ.

15. To implement the new tax, the City's Council passed Ordinance 3-80, entitled "Chicago Water and Sewer Tax." Under the ordinance, the tax is expressly imposed upon: "(1) the use and consumption in the City of water that is purchased from the Department of Water Management and (2) the transfer of wastewater to the City sewer system from property located in the City. The ultimate incidence and liability for payment of the tax is upon the Purchaser." *See* Exhibit B, Ordinance 3-80 at § 3-80-030.

16. Pursuant to Ordinance 3-80 the Water and Sewer Taxes were to be phased in over a period of four years. Exhibit A, the City's Water-Sewer Tax FAQ; Exhibit B, Ordinance 3-80 at § 3-80-040.

17. Specifically, starting in March 2017, the City began to impose the Water and Sewer Taxes at the rate of \$.295 per 1,000 gallons of water and per 1,000 gallons of sewer—for a total of \$.59 per 1,000 gallons of water-sewer use. Over the next three years the Water and Sewer Taxes climbed to \$2.51 per 1,000 gallons of water and per 1,000 gallons of sewer used.

Rate per 1,000 gallons (approximately)

YEAR	TAX ON WATER PORTION	TAX ON SEWER PORTION	TOTAL TAX (WATER & SEWER)	Y-O-Y TAX RATE INCREASE
2017	\$.295	\$.295	\$.59	7.7%
2018	\$.64	\$.64	\$1.28	8.4%
2019	\$1.005	\$1.005	\$2.01	8.2%
2020	\$1.255	\$1.255	\$2.51	5.2%
2021	\$1.255	\$1.255	\$2.51	0.0%

See Exhibit A, the City's Water-Sewer Tax FAQ; Exhibit B, Ordinance 3-80 at § 3-80-040.

18. If water-sewer customers, like Plaintiff, fail to pay the Water and Sewer Taxes, a penalty accrues at a rate of 1.25% per month. Exhibit A, the City's Water-Sewer Tax FAQ; Exhibit B, Ordinance 3-80 at § 3-80-060. Moreover, Article V of the City's Water and Sewer Ordinances, § 11-12-330 *et seq.* entitled Assessing and Collecting Charges permits the City to, among other actions: pursue unpaid water and sewer charges via collection action (§ 11-12-330); assess late payment

penalties (§ 11-12-420); and authorizes the City to terminate service and shut off water should the customer fall into arrears on water bills that are unpaid after a period of 30 days (§ 11-12-480).

19. In addition, state statutes provide the City with broad powers to enforce and collect unpaid water and sewer charges. 65 ILCS 5/11-139-8 creates a lien in favor of a municipality to secure payment of water and sewer charges, and further authorizes municipalities to bring civil actions to recovery unpaid water and sewer charges and gives the municipalities the right to recover their attorneys' fees in such actions. Payment of the Water and Sewer Taxes therefore is not voluntary.

20. The City began imposing the Water and Sewer Taxes upon its water and sewer customers expressly as a means of generating additional revenue to finance its general governmental obligation of funding its pension benefit obligations.

21. Thus, the Water and Sewer Taxes imposed by Ordinance No. 3-80 are not for or related to Plaintiff's actual use of the City's water and sewer system. Accordingly, the Water and Sewer Taxes are unlawful and unauthorized charges upon Plaintiff and those water and sewer customers in the City who/which have incurred or paid the Water and Sewer Taxes and are similarly situated.

**THE CITY LACKS STATUTORY AUTHORITY TO IMPOSE THE WATER TAX
BECAUSE STATE LAW EXPRESSLY PROHIBITS THE TAX**

22. Pursuant to Ill Const. art. VII § 6(a), the City is automatically conferred "home rule" status because it has a population of more than 25,000 residents.

23. Traditional municipalities are political subdivisions of the state and may only exercise the authority the state expressly grants to them. In contrast, home rule municipalities like the City govern more independently from the state and may exercise any power and perform any function unless it is expressly prohibited from doing so by state law. *See generally* Ill Const. art. VII § 6 and specifically Ill Const. art. VII § 6 (i).

24. Thus, as a home rule municipality, the City enjoys legislative autonomy and has the power to tax, subject to express state laws that regulate the type of taxes the City may impose.

25. Illinois statute 65 ILCS 5/8-11-6a, entitled “Home Rule Municipalities; Preemption of Certain Taxes” provides in relevant part:

Except as provided in Sections 8-11-1, 8-11-5, 8-11-6, 8-11-6b, 8-11-6c, 8-11-23, and 11-74.3-6 on and after September 1, 1990, no home rule municipality has the authority to impose, pursuant to its home rule authority, a retailer’s occupation tax, service occupation tax, use tax, **sales tax or other tax on the use, sale or purchase of tangible personal property based on the gross receipts from such sales or the selling or purchase price of said tangible personal property.**

Notwithstanding the foregoing, this Section does not preempt any home rule imposed tax such as the following:

(7) other taxes not based on the selling or purchase price or gross receipts from the use, sale or purchase of tangible personal property.

This Section is a limitation, pursuant to subsection (g) of Section 6 of Article VII of the Illinois Constitution, on the power of home rule units to tax. [emphasis added].

26. The overarching legislative purpose of § 8-11-6a is to restrict a home rule municipality’s power to tax. *See Ivan Ries & Co v City of Chicago*, 160 NE3d 916, 922 (2019) (“clear legislative intent to limit a home rule unit’s authority to impose certain taxes”).

27. The Water Tax is a tax on the purchase of tangible personal property—water—that is based on the cost of the amount of water purchased by the City’s water customers, and thus is a tax based upon the gross receipts from the sale of, or the selling or purchase price of, water by the City to its water customers in violation of 65 ILCS 5/8-11-6a.

28. The City’s Ordinance No. 3-80 is thus preempted by 65 ILCS 5/8-11-6a and as such, the Water Tax is an unlawful and unauthorized tax upon Plaintiff and those of the City’s water customers that have incurred or paid the Water Tax and are thus similarly situated.

29. The Illinois Legislature has given the City very narrow authority to impose taxes on water and sewer usage, and has dictated that the proceeds of any such taxes be used solely for purposes of the water and sewer system. For example, 65 ILCS 5/11-131-1 provides:

Sec. 11-131-1. The corporate authorities of any municipality, whether incorporated under a special charter or the general law, which now has, or hereafter may have, established or leased a waterworks system for the supply of water to its inhabitants, has the power annually to levy and collect a tax not to exceed .0166% of the value, as equalized or assessed by the Department of Revenue, of the taxable property in the municipality, **for the extension of watermains or pipes in the municipality and for the maintenance of its waterworks system, or for the creation of a sinking fund to be applied to the establishment of a waterworks system.** However, the board of public works of the municipality, if any, or the head of the municipality's water department, shall first certify to the corporate authorities the amount that will be necessary for the specified purposes, and shall further certify that the revenue from the waterworks system will be insufficient therefor. This tax shall be known as the water fund tax and shall be levied and collected in the same manner as are the other general taxes of the municipality. A two-thirds majority of all the corporate authorities may levy and collect annually, a tax not to exceed .05% of the value, as equalized or assessed by the Department of Revenue, of the taxable property in the municipality, for the specified purposes.

The corporate authorities of each municipality, with the concurrence of two-thirds of all of the members elected thereto, may levy and collect annually, in addition to all other taxes now authorized by law, a further tax of not to exceed .033% of the value, as equalized or assessed by the Department of Revenue, of the taxable property in the municipality, **to be used exclusively for the purpose of supplying water to the municipality.**

Nothing in this Section increases the aggregate amount of tax, as limited in Section 8-3-1, that may be levied in any one year. [emphasis added]

30. The Water Tax is not a tax authorized by 65 ILCS 5/11-131-1 because the water tax is not an ad valorem property tax and the proceeds are not used **“for the extension of watermains or pipes in the municipality and for the maintenance of its waterworks system, or for the creation of a sinking fund to be applied to the establishment of a waterworks system”** and are not “used exclusively for the purpose of supplying water to the municipality.”

CLASS ALLEGATIONS

31. Plaintiff brings this action as a class action, pursuant to 735 ILCS 5/2-801 et seq., individually and on behalf of a proposed class consisting of all persons or entities who/which are “purchasers” under Ordinance 3-80 and have incurred or paid Water and/or Sewer Taxes during the relevant class period.

32. The members of the Class are so numerous that joinder of all members is impracticable.

33. Plaintiff’s claims are typical of the claims of members of the Class. Plaintiff is a member of the Class she seeks to represent, and Plaintiff was injured by the same wrongful conduct that injured the other members of the Class.

34. The City has acted wrongfully in the same basic manner as to the entire class.

35. There are questions of law and fact common to all Class Members that predominate over any questions, which, if they exist, affect only individual Class Members, including:

- a. whether Ordinance 3-80, which establishes the Water and Sewer Taxes, is preempted by Illinois statute and thus unlawful and unauthorized;
- b. whether the Water and/or Sewer Taxes imposed by the City are unlawful and unauthorized under Illinois common law;
- c. whether the Water and Sewer Taxes are imposed for, or related to, the actual use of the City’s waterworks and sewer systems;
- d. whether the Water Taxes have been imposed in violation of 65 ILCS 5/8-11-6a; and
- e. whether the City should be required to disgorge and refund to its water and sewer customers all Water and Sewer Taxes collected since March 2017.

36. Plaintiff will fairly and adequately protect the interests of the Class, and Plaintiff has no interests antagonistic to those of the Class. Plaintiff is committed to the vigorous prosecution of this action, and has retained competent and experienced counsel to prosecute this action.

37. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. The prosecution of separate actions would create a risk of inconsistent or varying adjudications. Furthermore, the prosecution of separate actions would substantially impair and impede the ability of individual class members to protect their interests. In addition, since individual refunds may be relatively small for most members of the class, the burden and expense of prosecuting litigation of this nature makes it unlikely that members of the class would prosecute individual actions. Plaintiff anticipates no difficulty in the management of this lawsuit as a class action.

COUNT I

ASSUMPSIT-MONEY HAD AND RECEIVED FOR VIOLATION OF 65 ILCS 5/8-11-6a

WATER TAX

38. Plaintiff incorporates each of the preceding paragraphs 1 through 37, inclusive, as if fully set forth herein.

39. 65 ILCS 5/8-11-6a restricts the City's power to tax, expressly prohibiting imposition of a use tax, sales tax or other tax on the use, sale, or purchase of tangible personal property based on the gross receipts from such sales or the sales price.

40. The Water Tax, first imposed by the City in March 2017, is a use tax, sales tax and/or other tax on the use, sale, and/or purchase of tangible personal property (water) that is also based on the gross receipts from such sales and/or the sales price.

41. 65 ILCS 5/8-11-6a preempts the Water Tax's enacting ordinance, Ord. No. 3-80.

42. The Water Tax is unlawful, invalid, and unauthorized under Illinois law, specifically 65 ILCS 5/8-11-6a.

43. As a direct and proximate result of the City's unlawful and improper conduct in imposing and collecting the Water Taxes, the City has collected millions of dollars to which it is not entitled.

44. A claim to recover amounts paid to a governmental unit in excess of the amount allowed under law is properly filed as an equitable action in assumpsit for money had and received.

45. By virtue of the City's imposition of the Water Tax, the City has collected amounts in excess of the amounts it was legally entitled to collect. Therefore, Plaintiff is entitled to maintain an equitable action of assumpsit to recover back the amount of the illegal exaction.

46. As a direct and proximate result of the City's improper conduct, the City has collected millions of dollars to which it is not entitled. By paying the Water Tax, Plaintiff and the Class have conferred a benefit upon on the City.

47. Under equitable principles, the City should be required to disgorge the amounts it unlawfully collected through its unlawful imposition of the Water Tax.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests the following:

A. Certify this action to be a proper class action with Plaintiff certified as Class Representatives and Kickham Hanley PLLC and Moskovic & Associates, Ltd. designated Class Counsel;

B. Define the Class to include all persons or entities who/which are "purchasers" under Ordinance 3-80 and have incurred or paid Water Taxes at any time on or after March 1, 2017 and who/which incur or pay the Water Taxes during the pendency of this action.

C. Enter judgment in favor of Plaintiff and the Class and against the City, order and direct the City to disgorge all amounts attributable to the Water Taxes imposed or collected at any time on or after March 1, 2017 and during the pendency of this action, refund all Water Taxes it has

collected to Plaintiff and the Class, and to pay into a common fund for the benefit of Plaintiff and all other members of the Class the total amount of Water Taxes to which Plaintiff and the Class are entitled;

D. Appoint a Trustee to seize, manage and distribute in an orderly manner the common fund thus established;

E. Permanently enjoin the City from collecting any past Water Taxes and from imposing or collecting Water Taxes in the future;

F. Award Plaintiff and the Class the costs and expenses incurred in this action, including reasonable attorneys', accountants', and experts' fees; and

G. Grant any other appropriate relief.

COUNT II
UNJUST ENRICHMENT FOR VIOLATION OF 65 ILCS 5/8-11-6a

WATER TAX

48. Plaintiff incorporates each of the preceding paragraphs 1 through 37, inclusive, as if fully set forth herein.

49. The 65 ILCS 5/8-11-6a, restricts the City's power to tax, expressly prohibiting imposition of a use tax, sales tax or other tax on the use, sale, or purchase of tangible personal property based on the gross receipts from such sales or the sales price.

50. The Water Tax, first imposed by the City in March, 2017, is a use tax, sales tax and/or other tax on the use, sale, and/or purchase of tangible personal property (water) that is also based on the gross receipts from such sales.

51. 65 ILCS 5/8-11-6a preempts the Water Tax's enacting ordinance, Ord. No. 3-80.

52. The Water Tax is unlawful, invalid, and unauthorized under Illinois law, specifically 65ILCS 5/8-11-6a.

53. As a direct and proximate result of the City's unlawful and improper conduct in imposing and collecting the Water Taxes, the City has collected millions of dollars to which it is not entitled.

54. By virtue of the City's imposition of the Water Tax, the City has collected amounts in excess of amounts it was legally entitled to collect.

55. As a direct and proximate result of the City's improper conduct, the City has collected millions of dollars to which it is not entitled. By paying the Water Tax, Plaintiff and the Class have conferred a benefit upon on the City and it would be inequitable for the City to retain that benefit.

56. Under equitable principles, the City should be required to disgorge the amounts it unlawfully collected through its unlawful imposition and collection of the Water Tax.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests the following:

A. Certify this action to be a proper class action with Plaintiff certified as Class Representatives and Kickham Hanley PLLC and Moskovic & Associates, Ltd. designated Class Counsel;

B. Define the Class to include all persons or entities who/which are "purchasers" under Ordinance 3-80 and have incurred or paid Water Taxes at any time on or after March 1, 2017 and who/which incur or pay the Water Taxes during the pendency of this action.

C. Enter judgment in favor of Plaintiff and the Class and against the City, order and direct the City to disgorge all amounts attributable to the Water Taxes imposed or collected at any time on or after March 1, 2017 and during the pendency of this action, refund all Water Taxes it has collected to Plaintiff and the Class, and to pay into a common fund for the benefit of Plaintiff and

all other members of the Class the total amount of Water Taxes to which Plaintiff and the Class are entitled;

D. Appoint a Trustee to seize, manage and distribute in an orderly manner the common fund thus established;

E. Permanently enjoin the City from collecting any past Water Taxes and from imposing or collecting Water Taxes in the future;

F. Award Plaintiff and the Class the costs and expenses incurred in this action, including reasonable attorneys', accountants', and experts' fees; and

G. Grant any other appropriate relief.

COUNT III

ASSUMPSIT-MONEY HAD AND RECEIVED – UNREASONABLE WATER AND SEWER RATES

WATER AND SEWER TAXES

57. Plaintiff incorporates each of the preceding paragraphs 1 through 37, inclusive, as if fully set forth herein.

58. Under Illinois common law, Water and Sewer Rates must be reasonable and all charges imposed must relate to the actual use of the water and sewer system. *See e.g. Village of Niles v. City of Chicago*, 82 Ill App 3d 60, 68; 37 Ill Dec 142; 401 NE2d 1235 (1980); *Austin View Civic Ass'n v City of Palos Hts*, 85 Ill App 3d 89, 94-95; 40 Ill Dec 164; 405 NE2d 1256 (1980).

59. Water and Sewer Taxes are not for or related to Plaintiff's actual use of the City's water and sewer system, but are imposed to increase payments to the City's Municipal Employees' Annuity and Benefit Fund.

60. The City's Water and Sewer Taxes, when incorporated into the City's Water and Sewer Rates, render these rates arbitrary, capricious, and unreasonable.

61. A claim to recover amounts paid to a governmental unit in excess of the amount allowed under law is properly filed as an equitable action in assumpsit for money had and received.

62. By virtue of the City's imposition of the Water and Sewer Taxes, the City has collected amounts in excess of the amounts it was legally entitled to collect. Therefore, Plaintiff is entitled to maintain an equitable action of assumpsit to recover back the amount of the illegal exaction.

63. As a direct and proximate result of the City's improper conduct, the City has collected millions of dollars to which it is not entitled. By paying the Water and Sewer Taxes, Plaintiff and the Class have conferred a benefit upon on the City.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests the following:

A. Certify this action to be a proper class action with Plaintiff certified as Class Representatives and Kickham Hanley PLLC and Moskovic & Associates, Ltd. designated Class Counsel;

B. Define the Class to include all persons or entities who/which are "purchasers" under Ordinance 3-80 and have incurred or paid Water and/or Sewer Taxes at any time on or after March 1, 2017 and who/which incur or pay the Water and/or Sewer Taxes during the pendency of this action.

C. Enter judgment in favor of Plaintiff and the Class and against the City, order and direct the City to disgorge all amounts attributable to the Water and Sewer Taxes imposed or collected at any time on or after March 1, 2017 and during the pendency of this action, refund all Water and Sewer Taxes it has collected to Plaintiff and the Class, and to pay into a common fund for the benefit of Plaintiff and all other members of the Class the total amount of Water and Sewer Taxes to which Plaintiff and the Class are entitled;

D. Appoint a Trustee to seize, manage and distribute in an orderly manner the common fund thus established;

E. Permanently enjoin the City from collecting any past Water and Sewer Taxes and from imposing or collecting Water and Sewer Taxes in the future;

F. Award Plaintiff and the Class the costs and expenses incurred in this action, including reasonable attorneys', accountants', and experts' fees; and

G. Grant any other appropriate relief.

COUNT IV
UNJUST ENRICHMENT – UNREASONABLE WATER AND SEWER RATES

WATER AND SEWER TAXES

64. Plaintiff incorporates each of the preceding paragraphs 1 through 37, inclusive, as if fully set forth herein.

65. Under Illinois common law, Water and Sewer Rates must be reasonable and all charges imposed must relate to the actual use of the water and sewer system. *See e.g. Village of Niles v. City of Chicago*, 82 Ill App 3d 60, 68; 37 Ill Dec 142; 401 NE2d 1235 (1980); *Austin View Civic Ass'n v City of Palos Hts*, 85 Ill App 3d 89, 94-95; 40 Ill Dec 164; 405 NE2d 1256 (1980).

66. The Water and Sewer Taxes are not for or related to Plaintiff's actual use of the City's water and sewer system but is imposed to increase payments to the City's Municipal Employees' Annuity and Benefit Fund.

67. The City's Water and Sewer Taxes, when incorporated into the City's Water and Sewer Rates, render these rates arbitrary, capricious, and unreasonable.

68. As a direct and proximate result of the City's improper conduct, the City has collected millions of dollars to which it is not entitled. By paying the Water and Sewer Taxes, Plaintiff and the Class have conferred a benefit upon on the City.

69. By virtue of the City's inclusion of the Water and Sewer Taxes in its water and sewer rates, the City has collected amounts in excess of the amounts it was legally entitled to collect.

70. The City has been unjustly enriched because it received the Water and Sewer Tax revenues to which it was not entitled, and it would be unfair for the City to retain the Water and Sewer Taxes under the circumstances.

71. The City should be required to disgorge the amounts by which it has been unjustly enriched.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests the following:

A. Certify this action to be a proper class action with Plaintiff certified as Class Representatives and Kickham Hanley PLLC and Moskovic & Associates, Ltd. designated Class Counsel;

B. Define the Class to include all persons or entities who/which are “purchasers” under Ordinance 3-80 and have incurred or paid Water and/or Sewer Taxes at any time on or after March 1, 2017 and who/which incur or pay the Water and/or Sewer Taxes during the pendency of this action.

C. Enter judgment in favor of Plaintiff and the Class and against the City, order and direct the City to disgorge all amounts attributable to the Water and Sewer Taxes imposed or collected at any time on or after March 1, 2017 and during the pendency of this action, refund all Water and Sewer Taxes it has collected to Plaintiff and the Class, and to pay into a common fund for the benefit of Plaintiff and all other members of the Class the total amount of Water and Sewer Taxes to which Plaintiff and the Class are entitled;

D. Appoint a Trustee to seize, manage and distribute in an orderly manner the common fund thus established;

E. Permanently enjoin the City from collecting any past Water and Sewer Taxes and from imposing or collecting Water and Sewer Taxes in the future;

F. Award Plaintiff and the Class the costs and expenses incurred in this action, including reasonable attorneys', accountants', and experts' fees; and

G. Grant any other appropriate relief.

COUNT V

ASSUMPSIT-MONEY HAD AND RECEIVED – VIOLATION OF 65 ILCS 5/11-139-8

WATER AND SEWER TAXES

72. Plaintiff incorporates each of the preceding paragraphs 1 through 37, inclusive, as if fully set forth herein.

73. 65 ILCS 5/11-139-8 authorizes the City to establish rates for water and sewer services to the City's water and sewer customers, and imposes the express limitation that the City only "charge the inhabitants thereof a reasonable compensation for the use and service of the combined waterworks and sewage system and to establish rates for that purpose."

74. By including the Water and Sewer Taxes in the City's water and sewer rates, the City has failed to charge its inhabitants "a reasonable compensation for the use and service of the combined waterworks and sewage system" in violation of 65 ILCS 5/11-139-8.

75. The City's Water and Sewer Taxes, when incorporated into the City's Water and Sewer Rates, render these rates arbitrary, capricious, and unreasonable.

76. A claim to recover amounts paid to a governmental unit in excess of the amount allowed under law is properly filed as an equitable action in assumpsit for money had and received.

77. By virtue of the City's imposition of the Water and Sewer Taxes, the City has collected amounts in excess of the amounts it was legally entitled to collect. Therefore, Plaintiff is entitled to maintain an equitable action of assumpsit to recover back the amount of the illegal exaction.

78. As a direct and proximate result of the City's improper conduct, the City has collected millions of dollars to which it is not entitled. By paying the Water and Sewer Taxes, Plaintiff and the Class have conferred a benefit upon on the City.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests the following:

A. Certify this action to be a proper class action with Plaintiff certified as Class Representatives and Kickham Hanley PLLC and Moskovic & Associates, Ltd. designated Class Counsel;

B. Define the Class to include all persons or entities who/which are "purchasers" under Ordinance 3-80 and have incurred or paid Water and/or Sewer Taxes at any time on or after March 1, 2017 and who/which incur or pay the Water and/or Sewer Taxes during the pendency of this action.

C. Enter judgment in favor of Plaintiff and the Class and against the City, order and direct the City to disgorge all amounts attributable to the Water and Sewer Taxes imposed or collected at any time on or after March 1, 2017 and during the pendency of this action, refund all Water and Sewer Taxes it has collected to Plaintiff and the Class, and to pay into a common fund for the benefit of Plaintiff and all other members of the Class the total amount of Water and Sewer Taxes to which Plaintiff and the Class are entitled;

D. Appoint a Trustee to seize, manage and distribute in an orderly manner the common fund thus established;

E. Permanently enjoin the City from collecting any past Water and Sewer Taxes and from imposing or collecting Water and Sewer Taxes in the future;

F. Award Plaintiff and the Class the costs and expenses incurred in this action, including reasonable attorneys', accountants', and experts' fees; and

G. Grant any other appropriate relief.

COUNT VI
UNJUST ENRICHMENT – VIOLATION OF 65 ILCS 5/11-139-8

WATER AND SEWER TAXES

79. Plaintiff incorporates each of the preceding paragraphs 1 through 37, inclusive, as if fully set forth herein.

80. 65 ILCS 5/11-139-8 authorizes the City to establish rates for water and sewer services to the City's water and sewer customers, and imposes the express limitation that the City only "charge the inhabitants thereof a reasonable compensation for the use and service of the combined waterworks and sewage system and to establish rates for that purpose."

81. By including the Water and Sewer Taxes in the City's water and sewer rates, the City has failed to charge its inhabitants "a reasonable compensation for the use and service of the combined waterworks and sewage system" in violation of 65 ILCS 5/11-139-8.

82. The City's Water and Sewer Taxes, when incorporated into the City's Water and Sewer Rates, render these rates arbitrary, capricious, and unreasonable.

83. As a direct and proximate result of the City's improper conduct, the City has collected millions of dollars to which it is not entitled. By paying the Water and Sewer Taxes, Plaintiff and the Class have conferred a benefit upon on the City.

84. By virtue of the City's inclusion of the Water and Sewer Taxes in its water and sewer rates, the City has collected amounts in excess of the amounts it was legally entitled to collect.

85. The City has been unjustly enriched because it received the Water and Sewer Tax revenues to which it was not entitled, and it would be unfair for the City to retain the Water and Sewer Taxes under the circumstances.

86. The City should be required to disgorge the amounts by which it has been unjustly enriched.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests the following:

A. Certify this action to be a proper class action with Plaintiff certified as Class Representatives and Kickham Hanley PLLC and Moskovic & Associates, Ltd. designated Class Counsel;

B. Define the Class to include all persons or entities who/which are “purchasers” under Ordinance 3-80 and have incurred or paid Water and/or Sewer Taxes at any time on or after March 1, 2017 and who/which incur or pay the Water and/or Sewer Taxes during the pendency of this action.

C. Enter judgment in favor of Plaintiff and the Class and against the City, order and direct the City to disgorge all amounts attributable to the Water and Sewer Taxes imposed or collected at any time on or after March 1, 2017 and during the pendency of this action, refund all Water and Sewer Taxes it has collected to Plaintiff and the Class, and to pay into a common fund for the benefit of Plaintiff and all other members of the Class the total amount of Water and Sewer Taxes to which Plaintiff and the Class are entitled;

D. Appoint a Trustee to seize, manage and distribute in an orderly manner the common fund thus established;

E. Permanently enjoin the City from collecting any past Water and Sewer Taxes and from imposing or collecting Water and Sewer Taxes in the future;

F. Award Plaintiff and the Class the costs and expenses incurred in this action, including reasonable attorneys’, accountants’, and experts’ fees; and

G. Grant any other appropriate relief.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

KICKHAM HANLEY PLLC

By: /s/Gregory D. Hanley

Counsel for Plaintiff
Gregory D. Hanley
Kickham Hanley PLLC
32121 Woodward Avenue, Suite 300
Royal Oak, MI 48073
E-mail: ghanley@kickhamhanley.com
Phone: (248) 544-1500
Attorney No. 65814

Co-Counsel for Plaintiff
Alex Moskovic
Moskovic & Associates, Ltd.
3233 N. Arlington Heights Road, Suite 303
Arlington Heights, IL 60004
E-mail: amoskovic@moskoviclaw.com
Phone: (847) 797-1300
Fax: (847) 797-1350
Attorney No. 45923

EXHIBIT A

COVID-19 Vaccine

The COVID-19 vaccines are safe and effective, and are an important tool for ending the global pandemic. Vaccines protect you and the people around you, reducing the spread of COVID-19. Learn more at [Learn more at Chicago.gov/COVIDVax](https://chicago.gov/COVIDVax).




[I WANT TO](#)
[PROGRAMS AND INITIATIVES](#)
[GOVERNMENT](#)
[ABOUT](#)
[TRANSLATE](#)

Finance

[Home](#) / [Departments](#) / [Finance](#) / [Supporting Info](#) / [Utility Billing](#) / [Water-Sewer Tax FAQ](#)

Water-Sewer Tax FAQ

Why is the City Adding this Tax?

- The Chicago City Council and Mayor Emanuel approved a four-year phase-in of a water and sewer utility tax. The revenue from this tax will be used to make certain mandated pension payments.
- These mandated pension payments will support the retirements of many municipal employees, including our snow plow drivers, our librarians, and CPS non-teaching staff, such as classroom aides.

When will the tax appear on my water-sewer bill? Will the water-sewer tax impact my billing cycle?

- The water-sewer tax will appear on utility bills beginning in March 2017 with tax charges starting to accrue that same month.
- Utility accounts will be billed at the same frequency and on the same schedule as their current unified utility billing cycle.

I'm a metered account. What will I be charged?

- Properties with a water meter are billed based on the amount of water used in the billing period. For current water rates, please see [Water and Sewer Rates](#).
- Sewer charges are 100 percent of water charges.
- The water-sewer tax is charged based on consumption.
- The tax will be phased-in over four years, starting in March 2017 through 2020 and stay at the same tax rate in 2021.
- Beginning in March 2017, the water-sewer tax will be assessed at a rate of \$.295 per 1,000 gallons of water and \$.295 per 1,000 gallons of sewer or a total of \$.59 per 1,000 gallons of water-sewer use.

I'm a non-metered account. What will I be charged?

- Per the Municipal Code of Chicago, water usage is assessed based on factors including building size, lot size and other fixtures -- such as sinks, toilets, etc. The water charge is calculated by assuming usage based on these factors.
- Sewer charges are 100 percent of water charges.
- Non-metered properties are charged the water-sewer tax based on the same method used to calculate water and sewer charges.
- The tax will be phased-in over four years, starting in March 2017 through 2020, and stay the same tax rate in 2021.
- Beginning in March 2017, the water-sewer tax will be assessed at a rate of \$.295 per 1,000 gallons of water \$.295 per 1,000 gallons of sewer or a total of \$.59 per 1,000 gallons of water-sewer use.

Rate per 1,000 gallons (approximately)

YEAR	TAX ON WATER PORTION	TAX ON SEWER PORTION	TOTAL TAX (WATER & SEWER)	Y-O-Y TAX RATE INCREASE
2017	\$.295	\$.295	\$.59	7.7%

Supporting Information Facts

Department:

Finance

Utility Billing & Customer Service

People We Serve:

Residents

Home Owners

Renters

I Want To

[Apply For](#) +

[Check Status Of](#) +

[Find / Get](#) +

[Pay For/Buy](#) +

[Register](#) +

[Report/File](#) +

[Request](#) +

[Sign up for/Volunteer](#) +

2018	\$.64	\$.64	\$1.28	8.4%
2019	\$1.005	\$1.005	\$2.01	8.2%
2020	\$1.255	\$1.255	\$2.51	5.2%
2021	\$1.255	\$1.255	\$2.51	0.0%

I'm a metered account and part of the MeterSave program. What will happen to my bill if I go above my Metersave cap? Will the tax be charged on the total water and sewer use or just what I am billed for?

- For MeterSave residences, the water-sewer tax will only be assessed on the amount of water-sewer for which you are billed, not your total usage.

I'm a non-metered account. How do I sign up for a meter?

- Chicago's MeterSave program installs residential water meters free of charge to promote water conservation and save customers as much as 40 percent on their water and sewer costs.
- Homeowners participating in MeterSave are eligible for seven-year guarantee that their home water bill will be no higher than it would have been if the meter had not been installed.
- To learn more about the program, call 3-1-1 or visit www.metersave.org.

I'm a senior. Will I receive any reduction in the tax?

- Seniors who receive the senior citizen sewer exemption (senior who live in their own home and are individually metered) will continue to receive the exemption.
- This exemption reduces eligible senior's total water and sewer bill by 50 percent by removing sewer charges.
- With this exemption, senior will also see a 50 percent reduction in the tax on water-sewer usage as the tax will only be charged to the water portion of a seniors bill.

What happens if I do not pay the water-sewer tax?

- A penalty accrues at a rate of 1.25 percent per month on late balances, including tax charges.
- A property owner may have their water shut off for failure to pay their unified utility bill after multiple notifications.
- There are multiple payment plan options for residents to pay their utility bills. To learn more about the payment plan options, visit: [Utility Bill Payment Plans](#)

[Home](#)

[Disclaimer](#)

[Privacy Policy](#)

[Web Standards](#)

[Site Credits](#)

[Site Map](#)

[Contact Us](#)

[Press Room](#)



City of Chicago

Copyright © 2010 - 2021 City of Chicago



EXHIBIT B

CHAPTER 3-80

CHICAGO WATER AND SEWER TAX

3-80-010 Title.

3-80-020 Definitions.

3-80-030 Tax imposed.

3-80-040 Rate of tax.

3-80-050 Exemptions.

3-80-060 Collection and payment of the tax.

3-80-070 Deposit of funds.

3-80-080 Rules and regulations.

3-80-010 Title.

This chapter shall be known and may be cited as the “Chicago Water and Sewer Tax Ordinance”. The tax shall be known as the “Chicago Water and Sewer Tax” and is imposed in addition to all other taxes imposed by the City of Chicago, the State of Illinois or any other municipal corporation or political subdivision of the State of Illinois.

(Added Coun. J. 9-14-16, p. 29720, § 1)

3-80-020 Definitions.

When any of the following words or terms is used in this chapter, it shall have the meaning ascribed to it in this section:

- A. “City” means the City of Chicago, Illinois.
- B. “Department of Finance” means the City's Department of Finance or any successor department of the City.
- C. “Department of Water Management” means the City's Department of Water Management or any successor department of the City.
- D. “Fee” means the fee, charge, rate or other amount billed to a Purchaser for water or sewer service. “Fee” does not include (i) any interest or penalties related to a Fee, or (ii) the tax imposed by this chapter, or any interest or penalties related to the tax.
- E. “Person” means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, municipal corporation or political subdivision of the State of Illinois, or a receiver, trustee, conservator or other representative appointed by order of any court.
- F. “Purchaser” means any person who purchases water or sewer service from the Department of Water Management.

(Added Coun. J. 9-14-16, p. 29720, § 1)

3-80-030 Tax imposed.

Except as otherwise provided by this chapter, a tax is imposed upon: (1) the use or consumption in the City of water that is purchased from the Department of Water Management, and (2) the transfer of wastewater to the City sewer system from property located in the City. The ultimate incidence of and liability for payment of the tax is upon the Purchaser.

(Added Coun. J. 9-14-16, p. 29720, § 1)

3-80-040 Rate of tax.

The rate of the tax shall be as follows:

A. For water use: (1) during calendar year 2017, \$.000295 per gallon of water used or consumed; (2) during calendar year 2018, \$.00064 per gallon of water used or consumed; (3) during calendar year 2019, \$.001005 per gallon of water used or consumed; (4) during calendar year 2020, and during each calendar year thereafter, \$.001255 per gallon of water used or consumed. In the case of metered water service, the tax on water use shall equal the water tax rate multiplied by the number of gallons of water used or consumed. In the case of non-metered water service, the tax on water use shall equal the water tax rate multiplied by the assumed number of gallons of water used or consumed. Where no exemption applies, the assumed number of gallons of water used or consumed shall be determined by dividing the total water Fees charged by the per-gallon metered water Fee rate. Where an exemption applies, the assumed number of gallons of water used or consumed shall be determined by dividing the total water Fees that would have been charged in the absence of any exemption by the per-gallon metered water Fee rate.

B. For sewer use: 100 percent of the amount of tax determined to be owed for water use, as calculated in accordance with subsection A of this section.

(Added Coun. J. 9-14-16, p. 29720, § 1)

3-80-050 Exemptions.

A. The tax imposed by this chapter shall not apply to:

1. any person, business or activity which, under the laws of the United States or the State of Illinois, may not be made the subject of taxation by the City;
2. for water use, the use or consumption of water for which the Purchaser is exempt from paying a water Fee;
3. for sewer use, the transfer of wastewater for which the Purchaser is exempt from paying a sewer Fee.

B. Where a percentage of water or sewer Fees is exempt, the same percentage of use shall be exempt from the tax on water or sewer use. Where a dollar amount of water or sewer Fees is exempt, the equivalent amount of use shall be exempt from the tax on water or sewer use. This shall include, but not be limited to, an exemption from the payment of water or sewer Fees as the result of the cap provided by the City's MeterSave program.

For purposes of this subsection B, the amount of sewer use shall be assumed to equal the amount of water use.

(Added Coun. J. 9-14-16, p. 29720, § 1)

3-80-060 Collection and payment of the tax.

The Department of Finance shall collect the tax by billing it as a separately stated item on its unified statement of charges to Purchasers of water and sewer service. The Purchaser shall pay the tax to the Department of Finance on or before the payment due date of the Department of Finance's first bill that includes the tax. A late payment penalty assessed at a monthly rate of one and one-fourth percent shall be imposed on all tax for which payment in full is not received within 24 calendar days from the date the bill therefor was sent, as shown by the records of the Department of Finance. The late payment penalty shall not be imposed upon persons who are 65 years or older, who own and reside in their own residence and who have a separate water meter or water assessment.

(Added Coun. J. 9-14-16, p. 29720, § 1)

3-80-070 Deposit of funds.

All proceeds resulting from the imposition of the tax imposed by this chapter, including any interest or penalties related to the tax, shall be deposited in the City's Corporate Fund and shall be used to meet the City's funding obligations to the Municipal Employees' Annuity and Benefit Fund of Chicago.

(Added Coun. J. 9-14-16, p. 29720, § 1)

3-80-080 Rules and regulations.

The Comptroller is authorized to adopt, promulgate and enforce reasonable rules and regulations pertaining to the administration and enforcement of this chapter.

(Added Coun. J. 9-14-16, p. 29720, § 1)