

ORDINANCE NO. O-17-39

AN ORDINANCE AMENDING CHAPTER 94, TAXATION, OF THE MUNICIPAL CODE OF THE VILLAGE OF HANOVER PARK, BY ADDING THERETO ARTICLE XIII, MOTOR FUEL TAX

WHEREAS, the Village of Hanover Park (the “Village”) is a home-rule municipality in accordance with the Constitution of the State of Illinois of 1970; now, therefore,

BE IT ORDAINED by the President and Board of Trustees of the Village of Hanover Park, Cook and DuPage Counties, Illinois, as follows:

SECTION 1. That Chapter 94, Taxation, of the Municipal Code of the Village of Hanover Park, as amended, is hereby amended by adding thereto a new Article XIII, Motor Fuel Tax, which shall read as follows:

ARTICLE XIII. MOTOR FUEL TAX

Sec. 94-351. Title.

This Article shall be known and cited as the Village of Hanover Park Purchase of Motor Fuel at Retail and the tax imposed herein shall be known as the Village of Hanover Park Purchase of Motor Fuel at Retail Tax.

Sec. 94-352. Definitions.

For the purposes of this Article, wherever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this Section:

- A. “Dealer” means every person engaged in the business of the retail sale of motor fuel, including any person who has an established place of business for such purposes ascribed to them in this Article XIII.
- B. “Motor Fuel” means all volatile and inflammable liquids produced, blended or compounded for the purpose of, or which are suitable or practicable for, operating internal combustion engines.
- C. “Person” means any natural person, receiver, administrator, executor, conservator, assignee, trust in perpetuity, trust, estate, firm, co-partnership, joint venture, club, company, business trust, domestic or foreign corporation, association, syndicate, society or any group of individuals acting as a unit, whether mutual, cooperative, fraternal non-profit, or otherwise; whether the term “person” is used in any clause prescribing and imposing a penalty, the term as applied to associations shall mean that the owners or part owners thereof and, as applied to corporations, the officers thereof.

D. "Retail" means the sale for any good and valuable consideration to a person for use as a consumer.

Sec. 94-353. Imposition of tax.

A. Effective January 1, 2018, there is hereby imposed and shall immediately accrue and be collected a tax upon the purchase of motor fuel at retail in the Village of Hanover Park at a rate of two cents (\$0.02) per U.S. Gallon (including fractional gallons).

B. In the event motor fuel is dispensed by a unit of measure other than U.S. Gallon, then the tax shall be imposed at the same ratio of two cents (\$0.02) per U.S. Gallon to the unit of measure.

Sec. 94-354. Liability for payment.

The ultimate incidence of and liability for payment of said tax shall be borne by the retail purchaser. The tax herein levied shall be in addition to any and all other taxes. Nothing in this Article shall be construed to impose the tax upon the occupation of selling motor fuel. It shall be the duty of every dealer to secure said tax under rules and regulations prescribed by the Village Manager and as otherwise provided by this Article.

Sec. 94-355. Collection of tax.

Every dealer required to collect the tax levied by this Article shall secure said tax from the retail purchaser at the time the dealer collects payment for the motor fuel. The tax shall be paid by the retail purchaser to the person required to collect it as trustee for and on account of the Village of Hanover Park. It shall be a violation of this Article XIII for any dealer to fail to add this tax to the retail price of motor fuel or to absorb the tax.

Sec. 94-356. Filing of return.

Not later than the twentieth (20th) day of the month the dealer shall transmit a report of sale of motor fuel in the previous month to the Village of Hanover Park on such form and in such manner as prescribed by the Village Manager. Each report of sale of motor fuel shall be accompanied by a remittance of the appropriate amount of tax applicable to the sale reported and also a signed copy by the dealer or an authorized representative of the dealer of Illinois Department of Revenue form ST-1 (Sales and Use Tax Return).

Sec. 94-357. Rules and regulations.

The Village Manager may promulgate rules and regulations not inconsistent with the provisions of this Article concerning the enforcement and application of this Article. The term "rules and regulations" includes, but is not limited to, a case by case determination whether or not the tax imposed by this Article applies to a dealer or transaction.

Sec. 94-358. Failure to pay tax when due.

If for any reason any tax is not paid when due, a penalty at the rate of five percent (5%) per month on the amount of tax which remains unpaid shall be added and collected. Whenever any person shall fail to pay any tax herein provided, the Village may bring or cause to be brought an action to enforce the payment of said tax on behalf of the Village of Hanover Park in any court of competent jurisdiction.

Sec. 94-359. Sales presumed taxable – burden of proof.

It shall be presumed that all purchases of motor fuel in the Village are subject to tax under this Article until the contrary is established. The burden of proving that a purchase is not taxable hereunder shall be upon the dealer or purchaser so claiming.

Sec. 94-360. Records.

A. Each dealer shall keep books which, at a minimum, include:

- (1) The number of gallons of motor fuel sold at retail each day by the dealer in the Village of Hanover Park.
- (2) The actual motor fuel tax collected for each day by the dealer.

B. The Village Manager or his/her designee shall at all reasonable times have full access to such records.

C. To the extent permitted by law, the financial records of any dealer submitted pursuant to this Article or any rule and regulation promulgated thereunder shall not be available for public inspection in order to protect the dealer's right to privacy.

Sec. 94-361. Exemptions from tax.

The following are exempt from the Motor Fuel Tax:

- (a) Purchase or use to the extent the tax imposed by this Article would violate the Illinois or United States Constitution.
- (b) Purchase or use by the federal government or any state or local government.

Sec. 94-362. Suspension of revocation of license for failure to pay tax.

If the Village Manager, after hearing held by him/her, shall find that any dealer has willfully avoided payment of the tax imposed by this Article, he/she may suspend or revoke all Village licenses held by said dealer. The dealer, or a representative thereof, shall have an opportunity to be heard, and such hearing to be held not less than ten (10) days after

notice of the time and place of the hearing addressed to the dealer at his last known place of business has been deposited in the United States mail with postage prepaid. The suspension or revocation of any license shall not release or discharge the dealer from civil liability for the payment of the tax nor for prosecution of such offense.

Sec. 94-363. Disposition of records of tax.

All proceedings resulting from the imposition of the tax under this Article, including penalties, shall be paid into the treasury of the Village of Hanover Park and shall be credited to and deposited in the Motor Fuel Tax Fund of the Village.

Sec. 94-364. Penalty.

Any person found guilty of violating, disobeying, omitting, neglecting, or refusing to comply with or resisting the enforcement of any of the provisions of this Article, except when otherwise specifically provided, upon conviction thereof, shall be punished by a fine of not less than seventy-five dollars (\$75.00) nor more than one thousand dollars (\$1,000.00). Each day of violation shall constitute a separate and distinct offense.

SECTION 2. That each section, paragraph, sentence, clause and provision of this Ordinance is separable and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance nor any part thereof, other than the part affected by such decision.

SECTION 3. That except as to the amendments heretofore mentioned, all chapters and section of the Municipal Code of the Village of Hanover Park, as amended, shall remain in full force and effect.

SECTION 4. That this Ordinance shall, by authority of the Village Board of the Village of Hanover Park, be published in pamphlet form. From and after ten days after said publication, this Ordinance shall be in full force and effect.

ADOPTED this 16th day of November, 2017, pursuant to a roll call vote as follows:

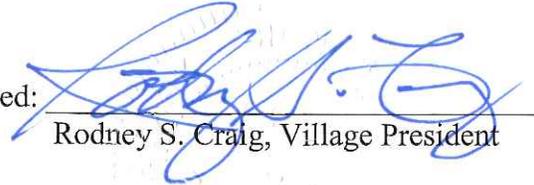
AYES: Porter, Kemper, Kunkel, Shahjahan, Prigge, Roberts

NAYS: None

ABSENT: None

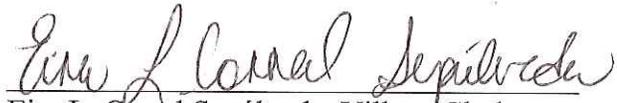
ABSTENTION: None

Approved:



Rodney S. Craig, Village President

ATTESTED, filed in my office
and published in pamphlet form
this 16th day of November, 2017.



Eira L. Corral Sepúlveda, Village Clerk