

Ordinance No. 12-79

**ORDINANCE AMENDING CHAPTER 35, TAXATION,
OF THE CODE OF ORDINANCES
OF THE VILLAGE OF EAST DUNDEE, ILLINOIS,
IMPOSING AN AUTOMOBILE TRANSFER TAX**

WHEREAS, the Village of East Dundee is a home-rule unit of local government under and pursuant to Section 6 of Article VII of the Constitution of the State of Illinois of 1970, has the authority to exercise any power and perform any function pertaining to its government and affairs, including but not limited to the power to regulate for the protection of the public health safety, morals and welfare; and,

WHEREAS, the President and Board of Trustees (the "*Corporate Authorities*") of the Village of East Dundee, Cook and Kane Counties, Illinois (the "*Village*"), determined that it is in the best interests of the health, safety and welfare of the residents of the Village of East Dundee that a tax be imposed upon the purchaser of any used automobile sold at wholesale within Village boundaries as hereinafter set forth.

NOW, THEREFORE, BE IT ORDAINED, by the President and Board of Trustees of the Village of East Dundee, Cook and Kane Counties, Illinois, as follows:

Section 1. That Chapter 35 of Title III of the Code of Ordinances of the Village of East Dundee is hereby amended by adding the following new section 35.12:

"35.12 Motor Vehicle Transfer Tax.

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PERSON. Any person, trustee, 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, nonprofit or otherwise.

WHOLESALE. Purchase of any item for purpose of resale.

(B) A tax is hereby imposed upon the privilege of buying an automobile which is sold at wholesale within the boundaries of the Village at the rate of ten dollars (\$10.00) per motor vehicle.

(C) The tax levied by this section shall be collected from the person to whom title to the motor vehicle is transferred at the time of delivery the person hereinafter referred to as the "buyer".

(D) The ultimate incidence of and liability for payment of the tax shall be borne by the buyer. It shall be the duty of every person receiving a motor vehicle upon which a tax is levied under this section to secure the tax from the buyer, to act as trustee for and on account of the Village and to pay over to the Village Treasurer the tax under procedures prescribed by the Village Treasurer or as otherwise provided in this section.

(E)(1) The Village Treasurer is hereby designated as the administration and enforcement officer of the tax hereby imposed on behalf of the Village. It shall be the responsibility and duty of the Treasurer to collect all amounts due the Village from the taxpayer. A sworn monthly tax return, on a calendar month basis, shall be filed by each taxpayer with the Treasurer, on forms prescribed by him or her, showing all receipts from the transfer of motor vehicles during the preceding month. The returns are to be filed within 20 days after the end of the month covered by the return, with the tax herein imposed due and owing as of the twentieth day of the month following the month covered by the return.

(2) Each return shall be accompanied by payment to the Village of all taxes due and owing for the month covered by the return.

(3) (a) During the normal business hours of any taxpayer, the Village Treasurer or any person certified by him or her as his or her deputy or representative may enter the premises of the taxpayer, upon reasonable notice, for the purposes of inspecting and examining its books and records for the proper administration of this section, and for the enforcement of the collection of the tax hereby imposed. It is unlawful for any person to prevent, hinder or interfere with the Treasurer or his or her duly authorized deputy or representative in the discharge of his or her duties hereunder.

(b) It shall be the duty of every taxpayer to keep accurate and complete books and records and to keep same at the taxpayer's principle place of business within the Village, containing all information necessary for the collection of the tax hereby imposed, to which the Treasurer or his or her duly authorized deputy or representative shall, at all times, have full access.

(c) In the event that the inspection and examination by the Treasurer discloses a discrepancy from the information furnished by the taxpayer, the cost of the inspection and examination shall be borne by the taxpayer.

(F) (1) Whenever any taxpayer shall fail to pay any taxes herein provided, the Village Attorney shall, upon request of the Village President or the Village Administrator, bring or cause to be brought an action to enforce the payment of the tax on behalf of the Village in any court of competent jurisdiction. If the Village President, after a hearing held by or for him or her, shall find that any taxpayer has willfully evaded his or her responsibility to pay the tax imposed by this section, he or she may suspend or

revoke all village licenses. Hearings to suspend or revoke a Village license shall be held as provided in Village ordinances creating and administering the licenses or as may be established by the corporate authorities from time to time.

(2) Any suspension or conviction resulting from the hearing shall not relieve or discharge any civil liability for non-payment of the tax due.

(G) (1) In the event of a failure by any taxpayer to pay to the Village Treasurer the tax required hereunder within ten (10) days after the same shall be due, interest shall accumulate and be due upon the tax at the rate of 1% per month commencing as of the first day of the month following the month for which the tax was to have been collected. In addition, a penalty of 10% of the tax and interest due shall be assessed and collected against any taxpayer who failed to pay the tax imposed by this section.

(2) In addition to the provision of this section, any taxpayer found guilty in a court of competent jurisdiction of violating, disobeying, omitting, neglecting or refusing to comply with or resisting or opposing the enforcement of any provisions of this section, upon conviction thereof, shall be punished by a fine. Each day any violation of any provision of this section shall continue to exist shall constitute a separate offense.”

Section 2. Severability. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the validity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

Section 3. Repeal. All ordinances, resolutions, motions or parts thereof in conflict herewith shall be and the same are hereby repealed.

Section 4. Publication. This Ordinance shall be in full force and effect forthwith upon its adoption, approval and publication in pamphlet form as provided by law.

ADOPTED this 1st day of October, 2012, pursuant to a roll call vote as follows:

AYES: 6-Justices Ruffalo, Gorman, Lynam, Miller, VanOstenbridge

NAYS: 1- Justice Skillicom & President Bartels

ABSENT: 0

APPROVED by me this 1st day of October, 2012.

Jerald Bartels
Jerald Bartels, President

Attest:

Jennifer Rehberg
Village Clerk

Published in pamphlet form this 9th day of October, 2012.

Jennifer Rehberg
Jennifer Rehberg, Village Clerk

Recorded in the Village Records on October 9th, 2012.

