

ORDINANCE 14-09

AN ORDINANCE AMENDING TITLE 3 OF THE MUNICIPAL CODE OF THE VILLAGE OF WEST DUNDEE, TO ADD NEW CHAPTER 20, LOCAL MOTOR FUEL TAX

WHEREAS, the Village of West Dundee (hereinafter "the Village") is a home-rule unit of government pursuant to Section 6(a), Article VII of the 1970 Illinois Constitution; and

WHEREAS, pursuant to its home rule power, the Village may exercise any power and perform any function relating to its government and affairs that is not specifically precluded by the State; and

WHEREAS, in addition the Illinois Statutes provide at 65 ILCS 5/8-11-15, that home-rule municipalities may impose a tax on the purchase of each gallon of motor fuel, or fraction thereof, sold at retail; and

WHEREAS, the Village Board of the Village of West Dundee hereby finds that imposing such a tax on the purchase of each gallon of motor fuel, or fraction thereof, sold at retail will raise needed revenue and is in the best interests of the residents of the Village of West Dundee.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE BOARD OF THE VILLAGE OF WEST DUNDEE, as follows:

SECTION 1: The above and foregoing recitals are hereby incorporated herein and made a part of the body of this Ordinance as if they were set forth again.

SECTION 2: Title 3 of the Municipal Code of the Village of West Dundee is hereby amended to add the following:

CHAPTER 20: LOCAL MOTOR FUEL TAX

3-20-1. Local Motor Fuel Tax. A tax shall be imposed and levied upon the retail purchase of motor fuel, or fraction thereof, sold at retail within the corporate limits of the Village. The tax imposed in this chapter shall be known and cited as the "Local Motor Fuel Tax".

3-20-2. Definitions. For the purposes of this chapter, unless the context otherwise requires, the following words or terms shall have the following meanings:

(A) "Dealer" means every person engaged in the business of the retail sale of motor fuel, including any person who has established place of business for such purposes ascribed to them in this chapter.

(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 nonprofit, or otherwise; whenever 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.

3-20-3. Imposition of tax.

(A) There is hereby imposed and shall immediately accrue and be collected a tax upon the privilege of purchasing motor fuel at retail in the Village of West Dundee at a rate of two cents (\$0.02) per U.S. Gallon.

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

3-20-4. 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 chapter 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 regulation prescribed by the Village Manager and as otherwise provided by this chapter.

3-20-5. Collection of Tax. Every dealer required to collect the tax levied by this chapter 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 West Dundee.

3-20-6. 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 West Dundee on such forms 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 a signed copy of Illinois Department of Revenue form ST-1 (Sales and Use Tax Return).

3-20-7. Rules and Regulations. The Village Manager may promulgate rules and regulations not inconsistent with the provisions of this chapter concerning the enforcement and application of this chapter. The term "rules and regulations" includes, but is not limited to, a case by case determination whether or not the tax imposed on the chapter applies to a dealer or transaction.

3-20-8. Failure to Pay Tax When Due. If for any reason any tax is not paid when due, a penalty at the rate of 2% 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 West Dundee in any court of competent jurisdiction.

3-20-9. 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 West Dundee.
- (2) The actual motor fuel tax collected for each day by the dealer.

(B) The Village Manager or his 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 Chapter or any rule and regulation promulgated thereunder shall not be available for public inspection in order to protect the dealer's right to privacy.

3-20-10. Suspension or Revocation of License for Failure to Pay Tax. If the Village Manager, after hearing held by him, shall find that any dealer has willfully avoided payment of the tax imposed by this Chapter, he 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.

3.20-11. Disposition of Records of Tax. All proceedings resulting from the imposition of the tax under this Chapter, including penalties, shall be paid into the treasury of the Village of West Dundee and shall be credited to and deposited in the General Corporate Fund of the Village.

3.20.12. Penalty. Any person found guilty of violating, disobeying, omitting, neglecting, or refusing to comply with or resisting or opposing the enforcement of any of the provisions of this Chapter, when otherwise specifically provided, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00). Each day of violation shall constitute a separate and distinct offense.

SECTION 2: This Ordinance shall be reviewed by the Village Board of the Village of West Dundee during the month of January, 2016 in order to determine whether to continue this tax or discontinue it at a yet to be determined date..

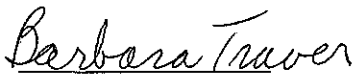
SECTION 3: That this Ordinance shall be in full force and effect on and after June 1, 2014.

AYES: Trustees Kembitzky, Price, Yuscka, Pflanz and Wilbrandt

NAYS:

ABSENT: Trustee Hanley

ATTEST:



Barbara Traver

Village Clerk



Christopher Nelson

Village President