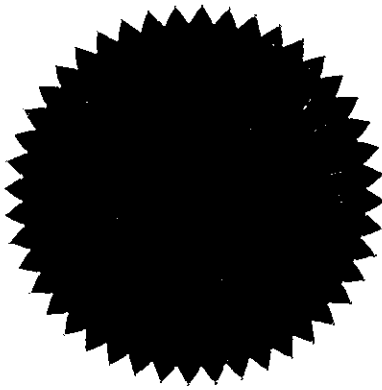


ORDINANCE 4510

PAMPHLET

FRONT OF PAMPHLET

AMENDING TITLE 9 IN REGARD TO
MUNICIPAL UTILITY TAX AND TO
ADD NEW SECTIONS REGARDING
ELECTRIC UTILITY TAX



PUBLISHED IN PAMPHLET FORM THIS 29TH DAY OF JULY, 1998,
BY ORDER OF THE CORPORATE AUTHORITIES OF THE VILLAGE OF LOMBARD,
DUPAGE COUNTY, ILLINOIS.

Lorraine G. Gerhardt
Lorraine G. Gerhardt
Village Clerk

AN ORDINANCE AMENDING TITLE 9, CHAPTER 98 OF THE LOMBARD VILLAGE CODE TO ADD SECTION 98.79 WITH REGARD TO MUNICIPAL UTILITY TAX AND TO ADD NEW SECTIONS 98.90 THROUGH 98.98 WITH REGARD TO ELECTRIC UTILITY TAX

BE IT ORDAINED by the President and Board of Trustees of the Village of Lombard,

DuPage County, Illinois, as follows:

Section 1: That Title 9, Chapter 98 of the Lombard Village Code is hereby amended to

add new Section 98.79 to read in its entirety as follows:

“98.79 REPLACEMENT OF TAX.

Notwithstanding any provision to the contrary herein, the Municipal Utility Tax imposed by Title 9, Chapter 98, Section 98.71(B) of this Code on the gross receipts of persons engaged in the business of distributing, supplying or selling electricity for use or consumption within the corporate limits of the Village and not for resale shall be imposed only until such time as it shall be replaced by a kilowatt hour tax on the privilege of using or consuming electricity within the corporate limits of the Village of Lombard. Upon imposition of a kilowatt-hour tax on both residential and nonresidential uses of electricity, all references to the application of a tax on the gross receipts of persons engaged in the business of distributing, supplying, furnishing or selling electricity that are contained herein shall be deemed deleted from this Chapter.”

Section 2: That Title 9, Chapter 98 of the Lombard Village Code is hereby amended to

add new Sections 98.90 through 98.98 to read in their entirety as follows:

“ELECTRIC UTILITY TAX

98.90 DEFINITIONS.

For the purposes of this subchapter, the following definitions apply unless the context clearly indicates or requires a different meaning:

Village means the Village of Lombard.

Person means any natural, individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, limited liability company,

municipal corporation, the State or any of its political subdivisions, any State university created by statute, or a receiver, trustee, conservator or other representative appointed by order of any court.

Person maintaining a place of business in this State means any person having or maintaining within this State, directly or by a subsidiary or other affiliate, an office, generation facility, distribution facility, transmission facility, sales office or other place of business, or any employee, agent, or other representative operating within this State under the authority of the person or its subsidiary or other affiliate, irrespective of whether such place of business or agent or other representative is located in this State permanently or temporarily or whether such person, subsidiary or other affiliate is licensed or qualified to do business in this State.

Purchase at retail means any acquisition of electricity by a purchaser for purposes of use or consumption, and not for resale, but shall not include the use of electricity by a public utility, as defined in Section 8-1-2 of the Illinois Municipal Code (65 ILCS 5/8-1-2), directly in the generation, production, transmission, delivery or sale of electricity.

Purchaser means any person who uses or consumes, within the corporate limits of the Village, electricity acquired in a purchase at retail other than an Exempt Purchaser except that, if the designation of Exempt Purchaser is found unconstitutional or otherwise invalid, the amount of tax due as a consequence of such holding shall be limited to the amount that the taxpayer is authorized to charge and collect from the aforementioned governmental entities pursuant to the provisions of Section 9-221 of the Public Utilities (220 ILCS 5/9-221) or any successor thereto.

Exempt Purchaser means the following governmental entities:

- (a) Glenbard Wastewater Authority
- (b) DuPage County
- (c) DuPage County Forest Preserve
- (d) Lombard Park District
- (e) High School District No. 87
- (f) Elementary School District No. 44
- (g) Elementary School District No. 45
- (h) Elementary School District No. 89
- (i) Butterfield Park District
- (j) High School District No. 88
- (k) DuPage Water Commission
- (l) Elementary School District No. 58
- (m) Elementary School District No. 41
- (n) High School District No. 99

- (a) For the first 2,000 kilowatt-hours used or consumed in a month; 0.566 cents per kilowatt-hour;
- (b) For the next 48,000 kilowatt-hours used or consumed in a month; 0.378 cents per kilowatt-hour;
- (c) For the next 50,000 kilowatt-hours used or consumed in a month; 0.335 cents per kilowatt-hour;
- (d) For the next 400,000 kilowatt-hours used or consumed in a month; 0.321 cents per kilowatt-hour;
- (e) For the next 500,000 kilowatt-hours used or consumed in a month; 0.317 cents per kilowatt-hour;
- (f) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.303 cents per kilowatt-hour;
- (g) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.290 cents per kilowatt-hour;

Pursuant to Section 8-1-2 of the Illinois Municipal Code (65 ILCS 5/8-1-2) and any and all other applicable authority, a tax is imposed upon the privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the Village at the following rates, calculated on a monthly basis for each purchaser:

98.91 TAX IMPOSED.

Tax collector means the person delivering electricity to the purchaser.

- (o) DuPage County Airport Authority
- (p) Glen Ellyn Park District
- (q) York Center Park District
- (r) Elementary School District No. 15
- (s) Addison Fire Department
- (t) York Township
- (u) Community College District No. 502
- (v) Helen Plum Memorial Library
- (w) DuPage County Health Department
- (x) Village of Lombard
- (y) Any other school district or unit of local government lying either in whole or in part within the Village of Lombard

B. Any tax required to be collected by this Chapter, and any tax in fact collected, shall constitute a debt owed to the Village by the person delivering the electricity, provided, that the person delivering electricity shall be allowed credit for such tax related to deliveries of electricity the charges for which are written off as

A. Subject to the provision of Section 98.96 regarding the delivery of electricity to resellers, the tax imposed under this Chapter shall be collected from purchasers by the person maintaining a place of business in this State who delivers electricity to such purchasers. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and is recoverable at the same time and in the same manner as the original charge for delivering the electricity.

98.94 COLLECTION OF TAXES.

The tax shall be imposed with respect to the use or consumption of electricity by residential customers beginning with the first bill issued on or after September 1, 1998; and with respect to the use or consumption of electricity by nonresidential customers beginning with the first bill issued to such customers for delivery services in accordance with Section 16-104 of the Public Utilities Act (220 ILCS 5/16-104), or the first bill issued to such customers on or after January 1, 2001, whichever issuance occurs sooner.

98.93 DATES OF IMPOSITION.

Notwithstanding any other provision of this Chapter, the tax shall not be imposed if and to the extent that imposition or collection of the tax would violate the Constitution or Statutes of the United States or the Constitution or Statutes of the State of Illinois.

98.92 EXCEPTION.

This tax is in addition to all taxes, fees and other revenue measures imposed by the Village, the State of Illinois or any other political subdivision of the State.

- (h) For the next 5,000,000 kilowatt-hours used or consumed in a month; 0.270 cents per kilowatt-hour;
- (i) For the next 10,000,000 kilowatt-hours used or consumed in a month; 0.250 cents per kilowatt-hour;
- (j) For all electricity consumed in excess of 20,000,000 kilowatt-hours in a month; 0.230 cents per kilowatt-hour;

C. Upon approval of the application, Village shall assign a resale number to the applicant and shall certify the number to the applicant.

B. If a person who receives electricity in the Village claims to be an authorized reseller of electricity, that person shall apply to Village for a resale number. The applicant shall state facts showing why it is not liable for the tax imposed by this Chapter on any purchases of electricity and shall furnish such additional information as the Village may reasonably require.

A. Electricity that is delivered to a person in this Village shall be considered to be for use and consumption by that person unless the person receiving the electricity has an active resale number issued by the Village and furnishes that number to the person who delivers the electricity, and certifies to that person that the sale is either entirely or partially nontaxable as a sale for resale.

98.96 REALES.

B. If the person delivering electricity fails to collect the tax from the purchaser or is excused from collecting the tax under Section 98.90 herein, then the purchaser shall file a return in a form prescribed by the Village's Director of Finance and pay the tax directly to the Village on or before the last day of the month following the month during which the electricity is used or consumed.

A. Every tax collector shall on a monthly basis file a return in a form prescribed by the Village's Director of Finance. The return and accompanying remittance shall be due on or before the last day of the month following the month during which the tax is collected.

98.95 TAX REMITTANCE AND RETURN.

C. Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering electricity shall also be authorized to add to such gross charge an amount equal to three percent (3%) of the tax they collect to reimburse them for their expenses incurred in keeping records, billing customers, preparing for filing returns, remitting the tax and supplying data to the Village upon request. For purposes of this Chapter, any partial payment of a billed amount not specifically identified by the purchaser shall be deemed to be for the delivery of electricity.

uncollectible, and provided further, that if such charges are thereafter collected, the delivering supplier shall be obligated to remit such tax.

Passed on first reading this _____ day of _____, 1998.

approval and publication in pamphlet form as provided by law.

Section 3: That this Ordinance shall be in full force and effect from and after its passage,

Notwithstanding any other provision of this Chapter, in order to permit sound fiscal planning and budgeting by the Village, no person shall be entitled to a refund or credit for, a tax imposed under this Chapter unless the person files a claim for refund or credit within one (1) year after the date on which the tax was paid or remitted."

98.8 CREDITS AND REFUNDS.

Every tax collector, and every taxpayer required to pay the tax imposed by this Chapter shall keep accurate books and records of its business or activity, including contemporaneous books and records denoting the transactions that give rise, or may have given rise, to any tax liability under this Chapter. The books and records shall be subject to and available for inspection at all times during business hours of the day.

98.7 BOOKS AND RECORDS.

(2) Any person who delivers electricity to a reseller having an active resale number and complying with all other conditions of this section shall be excused from collecting and remitting the tax on any portion of the electricity delivered to the reseller, provided that the person reports to the Village the total amount of electricity delivered to the reseller, and such other information that the Village may reasonably require.

E. (1) If a reseller has acquired electricity partly for use or consumption and partly for resale, the reseller shall pay the tax imposed by this Chapter directly to the Village pursuant to Section 98.95 herein on the amount of electricity that the reseller uses or consumes, and shall collect the tax pursuant to 98.94 herein and remit the tax pursuant to Section 98.95 herein on the amount of electricity delivered by the reseller to a purchaser.

D. The Village may cancel the resale number of any person if the person fails to pay any tax payable under this Chapter for electricity used or consumed by the person, or if the number: (1) was obtained through misrepresentation; or (2) is no longer necessary because the person has discontinued making resales.

First reading waived by action of the Board of Trustees this 23rd day of

July, 1998.

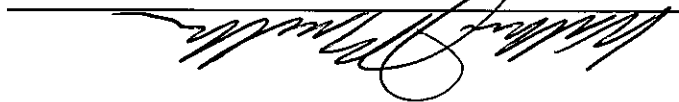
Passed on second reading this 23rd day of July, 1998.

AYES: Trustees Borgatell, Tross, Schaffer, Jauglas and Kuftrin

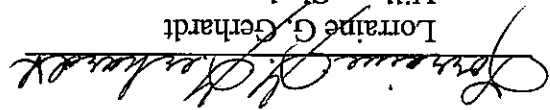
NAYS: None

ABSENT: None

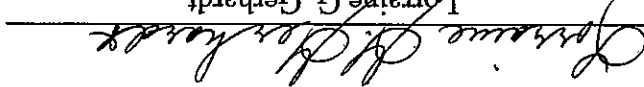
APPROVED this 23rd day of July, 1998.


William J. Mueller
Village President

ATTEST:


Lorraine G. Gerhardt
Village Clerk

Published by me in pamphlet form this 29th day of July, 1998.


Lorraine G. Gerhardt
Village Clerk

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