

VILLAGE OF PLAINFIELD

ORDINANCE NO. 2931

AN ORDINANCE REVISING THE MUNICIPAL UTILITY TAX FOR
ELECTRICITY.

PUBLISHED IN PAMPHLET FORM BY THE AUTHORITY OF THE PRESIDENT
AND BOARD OF TRUSTEES OF THE VILLAGE OF PLAINFIELD, WILL AND
KENDALL COUNTIES, ILLINOIS, THIS 16TH DAY OF MARCH, 2010.

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**AN ORDINANCE REVISING THE MUNICIPAL
UTILITY TAX FOR ELECTRICITY**

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF PLAINFIELD, WILL AND KENDALL COUNTIES, ILLINOIS, THAT THE CODE OF ORDINANCES OF THE VILLAGE OF PLAINFIELD ARE HEREBY AMENDED AS FOLLOWS:

Section 1. DEFINITIONS: For the purposes of this Ordinance, the following definitions apply unless the context clearly indicates or requires a different meaning:

- A. Person means any natural, individual, firm, trust, estate, partnership, association, joint stock company, joint venture, 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.
- B. 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.
- C. 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 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-2), directly in the generation, production, transmission, delivery or sale of electricity.
- D. Purchaser means any person who uses or consumes, within the corporate limits of the Village, electricity acquired in a purchase at retail.
- E. Tax collector means the person delivering electricity to the purchaser.
- F. Village means the Village of Plainfield, Will and Kendall Counties, Illinois.

Section 2. TAX IMPOSED: Effective first utility billing possible after May 1, 2010, pursuant to Section 8-11-2 of the Illinois Municipal Code (65 ICS 5/8-11-2) 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 City at the following rates, calculated on a monthly basis for each purchaser:

- (1) For the first 2,000 kilowatt-hours used or consumed in a month; 0.61 cents per kilowatt-hour;
- (2) For the next 48,000 kilowatt-hours used or consumed in a month; 0.40 cents per kilowatt-hour;
- (3) For the next 50,000 kilowatt-hours used or consumed in a month; 0.36 cents per kilowatt-hour;
- (4) For the next 400,000 kilowatt-hours used or consumed in a month; 0.35 cents per kilowatt-hour;
- (5) For the next 500,000 kilowatt-hours used or consumed in a month; 0.34 cents per kilowatt-hour;
- (6) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.32 cents per kilowatt-hour;
- (7) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.315 cents per kilowatt-hour;
- (8) For the next 5,000,000 kilowatt-hours used or consumed in a month; 0.31 cents per hour;
- (9) For the next 10,000,000 kilowatt-hours used or consumed in a month; 0.305 cents per kilowatt-hour; and
- (10) For all electricity used or consumed in excess of 20,000,000 kilowatt-hours in a month; 0.30 cents per kilowatt-hour.

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.

Section 3. EXCEPTION: Notwithstanding any other provision of this Ordinance, 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 State or the Constitution or Statutes of the State of Illinois.

Section 4. COLLECTION OF TAXES:

A. Subject to the provision of Section 6 regarding the delivery of electricity to resellers, the tax imposed under this Ordinance 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.

B. Any tax required to be collected by this Ordinance, 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 uncollectible, and provided further, that if such charges are thereafter collected, the delivering supplier shall be obligated to remit such tax.

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 collected 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 Ordinance, any partial payment of a billed amount not specifically identified by the purchaser shall be deemed to be for the delivery of electricity.

Section 5. TAX REMITTANCE AND RETURN:

A. Every tax collector shall on a monthly basis file a return in a form prescribed by the Village's Administrator. 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.

B. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall file a return in a form prescribed by the Village's Administrator 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.

Section 6. RESALES:

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.

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 Ordinance on any purchases of electricity and shall furnish such additional information as the Village may reasonably require.

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

D. The Village may cancel the resale number of any person if the person fails to pay any tax payable under this Ordinance 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.

E. If a reseller has acquired electricity partly for use or consumption and partly for resale the reseller shall pay the tax imposed by this Ordinance directly to the Village pursuant to Section 5 herein on the amount of electricity that the reseller uses or consumes and shall collect the tax pursuant to Section 4 herein and remit the tax pursuant to Section 5 herein on the amount of electricity delivered by the reseller to a purchaser.

F. 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.

Section 7. BOOKS AND RECORDS: Every tax collector, and every taxpayer required to pay the tax imposed by this Ordinance shall keep accurate books and records of its business or activity including contemporaneous books and records denoting the transactions that gave rise or may have given rise, to any tax liability under this Ordinance. The books and records shall be subject to and available for inspection at all times during business hours of the day.

Section 8. CREDITS AND REFUNDS. Notwithstanding any other provision of this Ordinance, in order to permit sound fiscal planning and budgeting by the Village no person shall be entitled to a refund of, or credit for a tax imposed under this Ordinance

unless the person files a claim for refund or credit within three (3) years after the date on which the tax was paid or remitted.

This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form according to law.

PASSED THIS 15TH DAY OF MARCH, 2010.

AYES: Kachel, Lamb, Racich, Bonuchi

NAYS: Peck, Fay

ABSENT: None

APPROVED THIS 15TH DAY OF MARCH, 2010.


VILLAGE PRESIDENT

ATTEST:

VILLAGE CLERK