

ORDINANCE NO. 2019-058

AN ORDINANCE
AUTHORIZING THE VILLAGE OF BUFFALO GROVE TO ADOPT A MUNICIPAL
MOTOR FUEL TAX PURSUANT TO ITS HOME RULE POWERS

WHEREAS, the Village of Buffalo Grove (“Village”) is a body politic and corporate, home rule unit of government under Section 6(a); Article VII of the 1970 Constitution of the State of Illinois, and may exercise powers pertaining to its local government and affairs, and duly organized and existing under the laws of the State of Illinois; and

WHEREAS, the Village may exercise any power and perform any function granted to it by the State of Illinois; and

WHEREAS, the Village is desirous of enacting a local home rule municipal motor fuel tax of \$0.02 per gallon on all retail sales of motor fuel; and

WHEREAS, the Village Board of Trustees has determined that it is necessary and appropriate to adopt a municipal motor fuel tax; and

WHEREAS, the Village Board of Trustees finds and determines that the best interests of the Village and its residents will be served by adoption of a municipal motor fuel tax; and

NOW, THEREFORE, BE IT ORDAINED, by the Village President and Village Board of Trustees, acting in the exercise of their collective powers that:

SECTION 1: The foregoing recitals are incorporated herein as findings of the Village Board of Trustees.

SECTION 2: The Village of Buffalo Grove hereby adopts a Municipal Motor Fuel Tax pursuant to the Village’s home rule powers and authority at a rate of \$0.02 per gallon.

SECTION 3: Chapter 3 of the Buffalo Grove Code of Ordinances is hereby amended

by adding Section 3.73 as follows:

Section 3.73 Municipal Motor Fuel Tax.

1. Short Title. The Tax imposed by this Section shall be known as the "Buffalo Grove Motor Fuel Tax" and is imposed in addition to all other motor fuel taxes imposed by the State of Illinois or any other municipal corporation or political subdivision thereof.
2. Definitions. For purposes of this Chapter, unless the context otherwise requires, the following words or terms shall have the meanings respectively applied to them:
 - a. "Motor Fuel". Any volatile and inflammable liquid and gas produced, blended or compounded for the purposes of or which is suitable for operating motor fuel vehicles, as defined herein.
 - b. "Person". Any individual, firm, trust, estate, partnership, association, corporation, joint venture, joint stock company, limited liability company, municipal corporation or political subdivision of this state, or a receiver, trustee, conservator, legal representative, or other legally recognized entity.
 - c. "Motor Fuel Retailer or Retail Dealer". Any person who is engaged in the business of selling motor fuel in the Village of Buffalo Grove to a purchaser for the purchaser's use or consumption, and not for resale in any form.
 - d. "Sale at Retail". Any sale to a person for that person's use or consumption and not for resale to another.
 - e. "Sale, Retail or Purchase". Any transfer of ownership or title or both, any exchange or any barter, whether conditional or otherwise, in any manner or by any means whatsoever for consideration.
 - f. "Use". The exercise of any right to, or power over, motor fuel incident to the ownership thereof, including, but not limited to, the receipt of vehicle fuel by any person into a fuel supply tank of a vehicle.
 - g. "Vehicle". Any machine or device in, upon or by which any person or property is or may be transported or drawn upon a rail, street, road, highway or otherwise upon land, in or upon water. "Vehicle" shall include, but not be limited to, automobiles, trucks, buses, trains, motorcycles, and boats.
3. Tax Imposed. Commencing on January 1, 2020, a tax, in addition to all other taxes, is imposed upon the privilege of purchasing or using motor fuel at retail within the Village, at a rate of two cents (\$0.02) per gallon of motor fuel, the

ultimate incidence of and liability for payment of the tax shall be upon the purchaser or user of the vehicle fuel. Nothing in this Chapter shall be construed to impose a tax upon the occupation of selling or distributing motor fuel. It shall be a violation of this Chapter for any retail dealer to fail to add this tax to the retail price of motor fuel or to absorb the tax. The tax shall be in addition to any and all other taxes.

4. **Collection of Tax by Retailer.** The owner and operator of each motor vehicle retailer within the Village shall jointly and severally have the duty to collect and account for said tax by filing a sworn motor fuel tax return with the Village of Buffalo Grove Village Manager or designee for each such licensed premises located in the Village. Said return shall be prepared and submitted on forms prescribed by the Village and shall be filed with the Village by the last day of the month following the month in which such motor fuel was sold. Said return shall also be accompanied by payment to the Village of all taxes imposed by this Article which are due and owing for the period covered in this return. The return shall also be accompanied with a copy of the Illinois Department of Revenue Sales and Use Tax Return (ST-1) for each motor fuel retailer.
5. **Registration and Maintenance of Books and Records.** The owner and operator of each motor fuel retailer within the Village shall each register with the Village within thirty (30) days after the commencement of such business on forms provided by the Village of Buffalo Grove Village Manager or designee. The owner and operator of each motor fuel retailer shall have the duty to maintain complete and accurate books, records and accounts showing the gross receipts for the sale of motor fuel and the taxes collected from the purchaser thereof, which shall be available in the Village of Buffalo Grove for examination and for audit by the Village upon reasonable notice during customary business hours.
6. **Late Payment Penalty.** If any tax imposed by this article is not paid over to the Village when due, a late payment penalty equal to five percent (5%) of the unpaid tax is added for each month or any portion thereof, that such tax remains unpaid and the total of such late payment penalty shall be paid along with the tax imposed hereby. The Village may bring an action to collect any unpaid tax or penalty.
7. **Penalty.** In addition to any late payment penalty, any owner and operator of the motor fuel retailer violating any provision of this Chapter upon conviction thereof shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) for each such offense. Each failure to collect the tax imposed hereby or each failure to pay such tax over to the Village of Buffalo Grove shall constitute a separate violation thereof.
8. **Transmittal of Excess Tax Collections.** If any person collects an amount upon a sale not subject to the tax imposed, but which amount is purported to be the collection of said tax, or if a person collects an amount upon a sale greater than the amount of the tax so imposed herein and does not for any reason return the same to the purchaser who paid the same before filing the return for the period

in which such occurred, said person shall account for and pay over those amounts to the Village along with the tax properly collected.

9. Enforcement. Payment and collection of the municipal motor fuel tax and any late payment penalty may be enforced by the Village by action in any court of competent jurisdiction, and failure to collect, account for and pay over said tax and any late payment penalty shall be cause for suspension or revocation of any Village license for such motor fuel facility applicable to the premises thereof, as regulated in Chapter 5.04 of the Municipal Code, all in addition to any other penalty in this Chapter.

SECTION 4. The invalidity of any section or provision of this Ordinance hereby passed and approved shall not invalidate other sections or provisions thereof.

SECTION 5: All actions of Village officers, employees and attorneys taken prior to the date hereof in furtherance of or consistent with this Ordinance are ratified and affirmed.

SECTION 6: The provisions of this Ordinance shall become effective on January 1, 2020 and all purchases of motor fuel on or after that date shall be subject to and pay such Motor Fuel Tax.

AYES: 5 – Stein, Ottenheimer, Weidenfeld, Johnson, Pike

NAYES: 1 - Smith

ABSENT: 0 - None

PASSED: November 4, 2019

APPROVED: November 4, 2019

APPROVED:


Beverly Sussman, Village President

ATTEST:


Janet M. Sirabian, Village Clerk