

VILLAGE OF PLAINFIELD

ORDINANCE NO. 2932

AN ORDINANCE ADOPTING A MOTOR FUEL TAX FOR THE VILLAGE OF
PLAINFIELD.

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 ADOPTING A MOTOR FUEL TAX
FOR THE VILLAGE OF PLAINFIELD**

WHEREAS, the Village of Plainfield is an Illinois home rule municipality pursuant to Article VII, Section 6, of the Illinois Constitution 1970; and

WHEREAS, as an Illinois home rule municipality the Village may 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 rights of all citizens, the public health, safety, morals, and welfare; to license; to tax; and to incur debt;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF PLAINFIELD, WILL AND KENDALL COUNTIES, AS FOLLOWS:

Section 1. That Chapter 7.7 of the Code of Ordinances of the Village of Plainfield is hereby amended by adding the following:

Section 2. DEFINITIONS. For the purposes of this Ordinance, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this Section:

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

(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 motor vehicles, but shall not include "Special Fuel."

(C) "Special Fuel" means aircraft fuel and any petroleum intended or offered for sale as a fuel for engines in which the fuel is injected into the combustion chamber and ignited by pressure without an electric spark, including diesel fuel.

(D) "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.

(E) "Retail" means the sale for any good and valuable consideration to a person for use as a consumer.

Section 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 at the rate of two-cents (\$.02) per U.S. Gallon.

(B) In the event motor fuel and/or special fuel is dispensed by a unit of measure other than the U.S. Gallon, then the tax shall be imposed at the same ratio of two cents (\$.02) as the unit measure is to the U.S. Gallon

Section 4. LIABILITY FOR PAYMENT. The ultimate incidence of and liability for payment of said tax shall be borne by the purchaser. The tax herein levied shall be in addition to any and all other taxes. Nothing in this Ordinance 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 regulations prescribed by the Village Administrator and as otherwise provided by this Ordinance.

Section 5. COLLECTION OF TAX. Every dealer required to collect the tax levied by this Ordinance shall secure said tax from the purchaser at the time he collects payment for the motor fuel. The tax shall be paid by the purchaser to the person required to collect it as trustee for and on account of the Village of Plainfield.

Section 6. FILING OF RETURN. On or before the twentieth (20th) day of each month the dealer shall transmit a report of sale of motor fuel in the previous month to the Village of Plainfield on such forms and in such manner as prescribed by the Village Administrator. Each report of sale of motor fuel shall be accompanied by a remittance of the appropriate amount of tax applicable to the sale reported.

Section 7. RULES AND REGULATIONS. The Village Administrator may promulgate rules and regulations not inconsistent with the provisions of this Ordinance concerning the enforcement and application of this Ordinance. The term "rules and regulations" includes, but is not limited to, a case by case determination whether or not the tax imposed by this Ordinance applies.

Section 8. FAILURE TO PAY TAX. If for any reason any tax is not paid when due, a penalty at the rate of five percent (5%) 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 Plainfield in any court of competent jurisdiction.

Section 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 in the Village of Plainfield; and
- (2) The actual motor fuel tax collected for each day.

(B) The Village Administrator or his designee shall at all reasonable times have full access to such records.

Section 10. SUSPENSION OR REVOCATION OF LICENSE FOR FAILURE TO PAY TAX; HEARING. If the Village Administrator, after hearing held by him, shall find that any person has willfully avoided payment of the tax imposed by this Ordinance, he may suspend or revoke all Village licenses held by said tax evader. The dealer 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 his civil liability for the payment of the tax nor for prosecution of such offense.

Section 11. DISPOSITION OF PROCEEDS OF TAX. All proceeds resulting from the imposition of the tax under this Ordinance, including penalties, shall be paid into the treasury of the Village of Plainfield and shall be credited to and deposited in the General Corporate Fund of the Village.

Section 12. REGISTRATION. Dealers doing business on the effective date of this ordinance shall register with the Management Services Department of the Village of Plainfield within thirty (30) days after such effective date. A person becoming a dealer after the adoption of this Ordinance shall register with the Management Services Department within twenty (20) days after commencement of business.

Section 13. 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 Ordinance, except 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 seven hundred fifty dollars (\$750.00). Each day of violation shall constitute a separate and distinct offense.

Section 14. SEVERABILITY. If anyone or more of the provisions of this Ordinance is declared unconstitutional or the application thereof is held invalid, the validity of the remainder of this ordinance and the application of such provisions to other persons and circumstances shall not be affected thereby.

Section 15. That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 16. That this Ordinance shall be in full force and effect from and after July 1, 2010, following its passage, approval and publication in pamphlet form according to law.

PASSED THIS 15TH DAY OF MARCH, 2010.

AYES: Kachel, Lamb, Racich, Bonuchi, Fay

NAYS: Peck

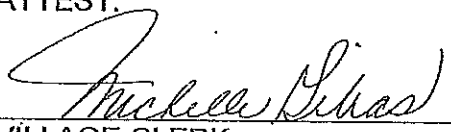
ABSENT: None

APPROVED THIS 15TH DAY OF MARCH, 2010.



VILLAGE PRESIDENT

ATTEST:



VILLAGE CLERK