

ORDINANCE NO. 2015-08

AN ORDINANCE ADOPTING CHAPTER 78, ARTICLE XII, SECTION 78-317 THROUGH SECTION 78-340, OF THE MUNICIPAL CODE, VILLAGE OF STICKNEY, ILLINOIS REGARDING THE USE OF MOTOR FUEL

WHEREAS, the Village of Stickney (the "Village") is a home rule municipal corporation in accordance with Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and

WHEREAS, the Village has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs, and to review, interpret and amend its ordinances, rules and regulations; and

WHEREAS, the Village President (the "President") and the Board of Trustees of the Village (the "Board," and together with the President, the "Corporate Authorities") are committed to continuing to provide efficient public services to residents of the Village; and

WHEREAS, the Corporate Authorities are also committed to promoting fuel efficiency and the reduction of the environmental impact that results from the use of motor fuel; and

WHEREAS, the Corporate Authorities have determined that it is in the best interests of the Village and its residents to impose a tax on the use of motor fuel within the Village; and

WHEREAS, in light of the foregoing, the Corporate Authorities have determined that it is in the best interests of the Village and its residents to adopt Chapter 78, Article XII, Section 78-317 through Section 78-340 of the Municipal Code, Village Of Stickney, Illinois (the "Village Code") as set forth herein; and

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF STICKNEY, COOK COUNTY, ILLINOIS, as follows:

**ARTICLE I.
IN GENERAL**

SECTION 1. INCORPORATION CLAUSE.

The Corporate Authorities hereby find that all of the recitals hereinbefore stated as contained in the preambles to this Ordinance are full, true and correct and do hereby, by reference, incorporate and make them part of this Ordinance as legislative findings.

SECTION 2. PURPOSE.

The purpose of this Ordinance is to adopt Chapter 78, Article XII, Section 78-317 through Section 78-340, of the Village Code regarding the use of motor fuel.

ARTICLE II.

**ADOPTION OF CHAPTER 78, ARTICLE XII, SECTION 78-317 THROUGH SECTION 78-340
OF THE MUNICIPAL CODE, VILLAGE OF STICKNEY, ILLINOIS**

SECTION 3. ADOPTION OF CHAPTER 78, ARTICLE XII.

That Article XII is hereby added to Chapter 78 of the Village Code notwithstanding any provision, ordinance, resolution or Village Code section to the contrary, and shall provide as follows:

ARTICLE XII. PRIVILEGE TAX ON PURCHASE OF MOTOR FUEL AT RETAIL

SECTION 3.01: ADOPTION OF CHAPTER 78, SECTION 78-317.

That the Village Code is hereby amended, notwithstanding any provision, ordinance, resolution or Village Code section to the contrary, by adopting Chapter 78, Section 78-317, which Section shall provide as follows:

Sec. 78-317 - Definitions.

For the purposes of this Article, whenever any of the following words, terms or definitions is used herein, it shall have the meaning ascribed in this Section:

- (1) "Dealer" means every person engaged in the business of the retail sale of motor fuel, including any person who has an established place of business for such purposes.
- (2) "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.
- (3) "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 the owners or part owners thereof and, as applied to corporations, the officers thereof.
- (4) "Retail" means the sale for any good and valuable consideration to a person for use as a consumer.

SECTION 3.02: ADOPTION OF CHAPTER 78, SECTION 78-318.

That the Village Code is hereby amended, notwithstanding any provision, ordinance, resolution or Village Code section to the contrary, by adopting Chapter 78, Section 78-318, which Section shall provide as follows:

Sec. 78-318 - Imposition Of Tax.

(a) There is hereby imposed and shall be collected a tax upon the privilege of purchasing motor fuel at retail in the Village at a rate of four cents (\$0.04) per U.S. Gallon.

(b) In the event motor fuel is dispensed by a unit of measure other than U.S. Gallon, then the tax shall be imposed at the same ratio of four cents (\$0.04) per U.S. Gallon to the unit of measure.

SECTION 3.03: ADOPTION OF CHAPTER 78, SECTION 78-319.

That the Village Code is hereby amended, notwithstanding any provision, ordinance, resolution or Village Code section to the contrary, by adopting Chapter 78, Section 78-319, which Section shall provide as follows:

Sec. 78-319 - 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 Article 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 and as otherwise provided by this Article.

SECTION 3.04: ADOPTION OF CHAPTER 78, SECTION 78-320.

That the Village Code is hereby amended, notwithstanding any provision, ordinance, resolution or Village Code section to the contrary, by adopting Chapter 78, Section 78-320, which Section shall provide as follows:

Sec. 78-320 - Collection Of Tax.

Every dealer required to collect the tax levied by this Article 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.

SECTION 3.05: ADOPTION OF CHAPTER 78, SECTION 78-321.

That the Village Code is hereby amended, notwithstanding any provision, ordinance, resolution or Village Code section to the contrary, by adopting Chapter 78, Section 78-321, which Section shall provide as follows:

Sec. 78-321 - Filing A Return.

Not later than the twentieth day (20th) of each month, the dealer shall transmit a report of sale of motor fuel in the previous month to the Village on such forms and in such manner as prescribed by the Village. 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 from ST-1 (Sales and Use Tax Return).

SECTION 3.06: ADOPTION OF CHAPTER 78, SECTION 78-322.

That the Village Code is hereby amended, notwithstanding any provision, ordinance, resolution or Village Code section to the contrary, by adopting Chapter 78, Section 78-322, which Section shall provide as follows:

Sec. 78-322- Rules And Regulations.

The Village may promulgate rules and regulations not inconsistent with the provisions of this Article concerning the enforcement and application of this Article. The term "rules and regulations" includes, but is not limited to, a case by case determination as to whether or not the tax imposed by this Article applies to a dealer or transaction.

SECTION 3.07: ADOPTION OF CHAPTER 78, SECTION 78-323.

That the Village Code is hereby amended, notwithstanding any provision, ordinance, resolution or Village Code section to the contrary, by adopting Chapter 78, Section 78-323, which Section shall provide as follows:

Sec. 78-323 - Failure To Pay Tax When Due.

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 in any court of competent jurisdiction.

SECTION 3.08: ADOPTION OF CHAPTER 78, SECTION 78-324.

That the Village Code is hereby amended, notwithstanding any provision, ordinance, resolution or Village Code section to the contrary, by adopting Chapter 78, Section 78-324, which Section shall provide as follows:

Sec. 78-324 – 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.
 - (2) The actual motor fuel tax collected for each day by the dealer.
- (b) The corporate authorities or a designee of the same 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 Article or any rule and regulation promulgated thereunder shall not be available for public inspection in order to protect the dealer's right to privacy.

SECTION 3.09: ADOPTION OF CHAPTER 78, SECTION 78-325.

That the Village Code is hereby amended, notwithstanding any provision, ordinance, resolution or Village Code section to the contrary, by adopting Chapter 78, Section 78-325, which Section shall provide as follows:

Sec. 78-325 – Suspension Or Revocation Of License For Failure To Pay Tax.

If the Village President, after hearing held by the Village President and/or the designee of the Village President, shall find that any dealer has willfully avoided payment of the tax imposed by this Article, the Village President or a designee of the same 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.

SECTION 3.10: ADOPTION OF CHAPTER 78, SECTION 78-326.

That the Village Code is hereby amended, notwithstanding any provision, ordinance, resolution or Village Code section to the contrary, by adopting Chapter 78, Section 78-326, which Section shall provide as follows:

Sec. 78-326 – Disposition Of Records Of Tax.

All proceedings resulting from the imposition of the tax under this Article, including penalties, shall be paid into the treasury of the Village and shall be credited to and deposited in the General Corporate Fund of the Village or allocated in a separate account for such other fund(s) as may be determined from time to time by the corporate authorities of the Village.

SECTION 3.11: ADOPTION OF CHAPTER 78, SECTION 78-327.

That the Village Code is hereby amended, notwithstanding any provision, ordinance, resolution or Village Code section to the contrary, by adopting Chapter 78, Section 78-327, which Section shall provide as follows:

Sec. 78-327 – Penalty.

Any person found liable for violating, disobeying, omitting, neglecting or refusing to comply with or resisting or opposing the enforcement of any of the provisions of this Article, except when otherwise specifically provided, upon a finding thereof, shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00) as well as any other penalties pursuant to this Article or Illinois law. Each day of violation shall constitute a separate and distinct offense.

SECTION 3.12: ADOPTION OF CHAPTER 78, SECTION 78-328 THROUGH SECTION 78-340.

That the Village Code is hereby amended, notwithstanding any provision, ordinance, resolution or Village Code section to the contrary, by adopting Chapter 78, Section 78-328 through Section 78-340, which Sections shall provide as follows:

Sec. 78-328 – Sec. 78-340 – Reserved.

**ARTICLE III.
HEADINGS, SAVINGS CLAUSES, PUBLICATION,
EFFECTIVE DATE**

SECTION 4. HEADINGS.

The headings of the articles, sections, paragraphs and subparagraphs of this Ordinance are inserted solely for the convenience of reference and form no substantive part of this Ordinance nor should they be used in any interpretation or construction of any substantive provision of this Ordinance.

SECTION 5. SEVERABILITY.

The provisions of this Ordinance are hereby declared to be severable and should any provision of this Ordinance be determined to be in conflict with any law, statute or regulation by a court of competent jurisdiction, said provision shall be excluded and deemed inoperative, unenforceable and as though not provided for herein and all other provisions shall remain unaffected, unimpaired, valid and in full force and effect.

SECTION 6. SUPERSEDER.

All code provisions, ordinances, resolutions, rules and orders, or parts thereof, in conflict herewith are, to the extent of such conflict, hereby superseded.

SECTION 7. PUBLICATION.

A full, true and complete copy of this Ordinance shall be published in pamphlet form or in a newspaper published and of general circulation within the Village as provided by the Illinois Municipal Code, as amended.

SECTION 8. EFFECTIVE DATE.

This Ordinance shall be effective as of September 1, 2015.

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PASSED this 7th day of July, 2015.

AYES: Trustees De Leshe, Hrejsa, Lazansky, Milenkovic, Savopoulos, and White

NAYS:

ABSENT:

ABSTENTION:

APPROVED by me this 7th day of July, 2015.

Deborah Morelli, President

ATTESTED AND FILED in my office this 8th day of July, 2015.

Audrey McAdams, Village Clerk