

CITY OF BELVIDERE, ILLINOIS

ORDINANCE #658H

AN ORDINANCE AMENDING SECTIONS 106-300, 106-301, 106-302 AND 106-303 OF THE CITY OF BELVIDERE MUNICIPAL CODE PERTAINING TO THE LOCAL MOTOR FUEL TAX TO IMPOSE THE TAX UPON THE USE OF FUEL NOT PURCHASED AT RETAIL FOR CERTAIN VEHICLES.

PASSED AND ADOPTED

BY THE CITY COUNCIL

OF THE CITY OF

BELVIDERE, ILLINOIS

ON THE 19th DAY OF FEBRUARY 2024.

APPROVED BY THE

MAYOR OF THE CITY OF

BELVIDERE, ILLINOIS

ON THE 20th DAY OF FEBRUARY, 2024

Published in Pamphlet Form this 20th day of February 2024.

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LOCAL MOTOR FUEL TAX TO IMPOSE
THE TAX UPON THE USE OF FUEL NOT PURCHASED
AT RETAIL FOR CERTAIN VEHICLES

WHEREAS, in 2018 by Ordinance 405H, the Corporate Authorities adopted the City of Belvidere Local Motor Fuel Tax (LMFT) imposing a tax upon the purchase, at retail, of motor fuel within the City of Belvidere; and

WHEREAS, multiple large fleet operators and manufacturers purchase motor fuel in bulk for use in their vehicles operated within the City of Belvidere or manufactured in the City of Belvidere; and

WHEREAS, these operators and manufacturers have avoided the LMFT by purchasing their fuel in bulk and not at retail despite having significant impact upon the City's roads and services.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Belvidere as follows:

SECTION 1: Sections 106-300, 106-301, 106-302 and 106-303 of the City of Belvidere Municipal Code are amended to read as set forth in the attached Exhibit A which is incorporated herein by this reference.

SECTION 2: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

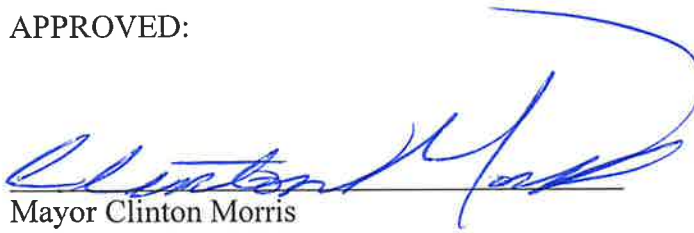
SECTION 4: This Ordinance shall be in full force and effect from and after its passage and publication in pamphlet form as required by law which publication is hereby authorized.

Voting Aye: Frank, Gramkowski, McGee, Mulhall, Snow, Stevens, Albertini, Brereton, and Fleury.

Voting Nay: None.

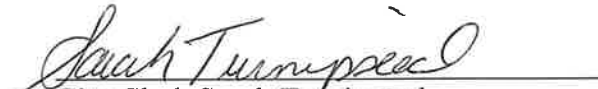
Absent: Freeman.

APPROVED:



Mayor Clinton Morris

ATTEST:


City Clerk Sarah Turnipseed

(SEAL)

Passed: February 19, 2024
Approved: February 20, 2024
Published: February 20, 2024

EXHIBIT A

EXHIBIT A

Sec. 106-300. Definitions.

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City means the City of Belvidere, Boone County Illinois.

Department means the budget officer or finance director of the city or such other city department or individual as assigned by the mayor.

Motor fuel means any volatile and inflammable liquid or gas produced, blended or compounded for the purpose of or which is suitable for operating any combustion engine or a vehicle, or which is used in propelling a vehicle. "Vehicle fuel" includes, but is not limited to, gasoline, gasohol, diesel fuel, ethanol, motor benzol, motor benzene, propane gas fuel, kerosene and "special fuel" as defined in the Illinois Motor Fuel Tax Law, as amended [ILCS Ch. 35, Act 505 § 1.13], and blends thereof.

Person means any individual, firm, trust, estate, partnership, association, corporation, limited liability company, joint venture, joint stock company, receiver, trustee, conservator, legal representative, or other legally recognized entity.

Retail vehicle fuel dealer means any person who is engaged in the business of selling motor fuel in the city to a purchaser for the purchaser's use or consumption, and not for resale in any form.

Sale, resale, or purchase means 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.

Sale at retail means any sale to a person for that person's use or consumption and not for resale to another.

Use means the exercise of any right to or power over vehicle 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. A user of motor fuel means any person using or causing to be used the motor fuel as described herein and in section 106-301.

Vehicle means 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, or through the air. "Vehicle" includes, but is not limited to, motor vehicles as defined in the Illinois Vehicle Code, automobiles, trucks, buses, trains, motorcycles, boats, and aircraft.

Sec. 106-301. Local motor fuel tax imposed.

- (a) A local motor fuel tax is hereby imposed upon the privilege of purchasing or using each gallon of motor fuel, or fraction thereof, purchased in a sale at retail or used within the corporate limits of the city, at the rate of two cents per gallon. The ultimate incidence of and liability for payment of the tax is to be borne by the retail purchaser or user of motor fuel. Nothing in this chapter shall be construed to impose a tax upon the occupations of persons engaged in the retail sale of vehicle fuel. It shall be the duty of every retail vehicle fuel dealer to secure the tax from the purchaser at the time the retail vehicle fuel dealer collects the purchase price for the motor fuel and to pay over the tax to the city through the department.
- (b) In the event motor fuel is dispensed in a unit of measure other than the gallon, the tax shall be imposed at the same ratio to one cent as the unit is to the gallon. The tax shall be paid in addition to any and all other taxes and charges.
- (c) It shall be presumed that all sales and uses of motor fuel in the city are subject to the local motor fuel tax until the contrary is established, by clear and convincing evidence. The burden of proving that a sale or use is not taxable under this article shall be upon the retail vehicle fuel dealer, purchaser or user so claiming.
- (d) The local motor fuel tax imposed by this article shall not be applicable to the privilege of purchasing or using vehicle fuel when such fuel is purchased or used, as the case may be, by the federal government, or any of its instrumentalities.
- (e) Use of motor fuel shall be deemed to occur only at the place within the City of Belvidere where the motor fuel is transferred into a motor vehicle, subject to registration and licensing under the Illinois Vehicle Code or which could be registered and titled under the Illinois Vehicle Code, by which it is to be consumed. To the extent that a person has paid the tax imposed by this Article on the retail purchase of motor fuel, such person shall be exempt from the payment of and liability for said tax on the use of such fuel.

Sec. 106-302. Collection and remittance of local motor fuel tax.

- (a) The local motor fuel tax shall be collected by each retail vehicle fuel dealer, who shall have the duty to collect the local motor fuel tax from the purchaser of the motor fuel, and thereafter remit such local motor fuel tax to the city.
- (b) If any retail vehicle fuel dealer fails to collect the local motor fuel tax, such retail vehicle fuel dealer shall remain liable for the local motor fuel tax not collected and shall pay the amount of the local motor fuel tax due to the city in accordance with this article.
- (c) On the 20th day of each calendar month the retail vehicle fuel dealer or each user, as described in Section 106-301 shall transmit a report of sale or use of all vehicle fuel in the previous month, on forms to be created and approved by the department, together with a sum of money equal to the amount of the local motor fuel tax owing for the applicable month. A retail vehicle fuel dealer may retain one percent of the total sum of motor fuel tax owed for the applicable month as a credit to reimburse the retail vehicle fuel dealer for the time and expense incurred in connection with collecting and remitting the local motor fuel tax.
- (d) Failure by the retail vehicle fuel dealer to file sales and use tax returns with the Illinois Department of Revenue shall not relieve the retail vehicle fuel dealer from the responsibility to pay the local motor fuel tax to the city. The Department may require each retail vehicle fuel dealer and each user to file with the Department copies of the corresponding sales and use tax returns submitted to the Illinois Department of Revenue. The Department may require each user of motor fuel to file copies of invoices or paid receipts representing the user's purchase of motor fuel used in the City under this Article.
- (e) Late or unpaid payments of the local motor fuel tax shall, in addition to penalties as set forth in this article or in Section 1-9 of the City of Belvidere Municipal Code, be subject to interest at the rate of one and one-half percent per month or each fraction thereof. Further, a retail vehicle fuel dealer will not be entitled to the one percent credit set forth in subsection (c) above if a payment is late or unpaid.

Sec. 106-303. Registration.

Each retail vehicle fuel dealer shall register as a retail vehicle fuel dealer with the upon forms created and approved by the department. Each person who maintains or operates an above ground storage tank or below ground storage tank for the dispensing of motor fuel, not at retail, into a motor vehicle subject to registration under the Illinois Vehicle Code, or which could be registered under the Illinois Vehicle Code, shall register as a vehicle fuel dispenser upon forms created and approved by the department.

AFFIDAVIT

STATE OF ILLINOIS)
)
COUNTY OF BOONE)

Sarah Turnipseed, first being duly sworn on oath deposes and says as follows:

By authority of the City Council of the City of Belvidere, Illinois, I published Ordinance #658H of the City of Belvidere, Illinois, in pamphlet form on February 20, 2024, and as a convenience for the public; I posted the pamphlet form of Ordinance #658H on the bulletin board in the lobby of Belvidere City Hall at 401 Whitney Blvd., Belvidere, Illinois; said location being readily accessible to the public during business hours of the City Clerk's office.



Sarah Turnipseed
City Clerk

SUBSCRIBED AND SWORN TO BEFORE ME
this 20th day of Feb, 2024.



Notary Public