PAMPHLET

FRONT OF PAMPHLET

ORDINANCE NO. 2003-O- 005

AN ORDINANCE AMENDING AN ORDINANCE CONCERNING A MUNICIPAL UTILITY TAX IN AND FOR THE VILLAGE OF HOPKINS PARK, KANKAKEE COUNTY, ILLINOIS

Published in pamphlet form this 30th day of June, 2003, by Order of the Corporate Authorities of the Village of Hopkins Park, Kankakee County, Illinois.

By: _____

Solomon Daniels
Village Clerk

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AN ORDINANCE AMENDING AN ORDINANCE CONCERNING A MUNICIPAL UTILITY TAX IN AND FOR THE VILLAGE OF HOPKINS PARK, KANKAKEE COUNTY, ILLINOIS

WHEREAS, the President and Board of Trustees of the Village of Hopkins Park have established an ordinance concerning a municipal utility tax in and for the Village of Hopkins Park; and

WHEREAS, the President and the Board of Trustees of the Village of Hopkins Park have determined that the Ordinance concerning a municipal utility tax in and for the Village of Hopkins Park should be amended;

NOW, THEREFORE, BE IT ORDAINED, BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF HOPKINS PARK, KANKAKEE COUNTY, ILLINOIS as follows:

That Ordinance No. 87-10131 of the Village of Hopkins Park entitle "AN ORDINANCE IMPOSING A MUNICIPAL UTILITY TAX IN AND FOR THE VILLAGE OF HOPKINS PARK, KANKAKEE COUNTY, ILLINOIS" is hereby repealed.

That the following ordinance is hereby substituted for Ordinance No. 87-10131 hereinabove repealed.

SECTION 1

That a tax is imposed on all persons engaged in the following occupations or privileges:

(a) Persons engaged in the business of distributing, supplying, furnishing or selling gas for use or consumption within the corporate limits of the Village of Hopkins Park, and not for resale, at the rate of five per cent of the gross receipts therefrom.

(b) Tax imposed.

A. Pursuant to Section 8-11-2 of the Illinois Municipal Code (65 ILCS 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 Village at the following rates, calculated on a monthly basis for each purchaser:

(i) For the first 2,000 kilowatt-hours used or consumed in a month; 0.61 cents per kilowatt-hour;

(ii) For the next 48,000 kilowatt-hours used or consumed in a month; 0.40 cents per kilowatt-hour;

(iii) For the next 50,000 kilowatt-hours used or consumed in a month; 0.36 cents per kilowatt-hour;

(iv) For the next 400,000 kilowatt-hours used or consumed in a month; 0.35 cents per kilowatt-hour;

(v) For the next 500,000 kilowatt-hours used or consumed in a month; 0.34 cents per kilowatt-hour;

(vi) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.32 cents per kilowatt-hour;

(vii) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.315 cents per kilowatt-hour;

(viii) For the next 5,000,000 kilowatt-hours used or consumed in a month; 0.31 cents per kilowatt-hour;

(ix) For the next 10,000,000 kilowatt-hours used or consumed in a month; 0.305 cents per kilowatt-hour;

(x) For all electricity used or consumed in excess of 20,000,000 kilowatt-hours used or consumed in a month; 0.30 cents per kilowatt-hour;

B. The 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.

C. 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 States or the Constitution of the State of Illinois.

D. The tax shall be imposed with respect to the use of consumption of electricity by residential and non-residential customers beginning with the first bill issued on or after October 1, 2003.

SECTION 2

That no tax authorized by this Ordinance is imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business may not, under the Constitution and Statutes of the United States, be made the subject of taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing supplying, furnishing, or selling gas, water or electricity or engaged in the business of transmitting messages be subject to the taxation under the provisions of this Ordinance for such transactions as are or may become subject to taxation under the provisions of the "Municipal Retailers' Occupation Tax Act" authorized by Section 8-11-1 of the Illinois Municipal Code, 1961, as amended.

(a) Gross receipts tax.

The tax imposed under this Section shall not apply with respect to gross receipts pertaining to bills for the distribution, supply furnishing or sale of electricity where the use or consumption of the electricity is subject to the tax imposed under Section 1.b.A.

(b) Overpayment of tax and credit.

If a taxpayer under this ordinance is unable to use a credit authorized by this section solely because the tax imposed by this ordinance has been replaced by the tax imposed under Section 1.b.A. then the taxpayer may apply such credit against any tax due under Section 1.b.A.

SECTION 3

That the taxes enumerated in this Ordinance shall be in addition to the payment of money, or value of products or services furnished to the Village of Hopkins Park by the taxpayers as compensation for the use of its streets, alleys, or other public places, or installation and maintenance therein, thereon or thereunder of poles, wires, pipes or other equipment used in the operation of the taxpayer's business.

SECTION 4

Definitions

That for the purpose of the taxes enumerated in this Ordinance, the following definitions shall apply:

(a) "Village" means the Village of Hopkins Park.

(b) "Person" means any natural, individual firm, trust, estate, partnership, association, joint stock company, joint adventure, 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.

(c) "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.

(d) "Purchase at retail" means any acquisition of electricity by a purchaser for purposes of use or consumption, and not fore 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.

(e) "Purchaser" means any person who uses or consumes, within the corporate limits of the Village, electricity acquired in a purchase at retail.

(f) "Tax collection" means the person delivering electricity to the purchaser.

SECTION 5

Collection of Tax

(a) Subject to the provision 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 (3%) of the tax they collect to reimburse them for their expenses incurred in keeping records, billing customers, preparing and 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 6

Tax and Remittance and Return

(a) Every tax collector shall on a monthly basis file a return in a form prescribed by the Village Treasurer. 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 or is required to be collected.

(b) If the person delivering electricity fails to collect the tax form the purchaser or is excused form collecting the tax, then the purchaser shall file a return in a form prescribed by the Village Treasurer 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 7

Resales

(a) Electricity that is delivered to a person in the 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 Treasurer 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 claim s to be an authorized reseller of electricity, that person shall apply to the Village Treasurer for a resale number. The applicant shall sate facts showing why it is not liable for the tax imposed by this chapter on any purchases of electricity and shall furnish such additional information as the Village Board of Trustees may reasonably require.

(c) Upon approval of the application the Village Treasurer shall assign a resale number to the applicant and shall certify the number to the applicant.

(d) The Village Treasurer may cancel the resale number of any person if the person fails to pay any tax payable under this chapter 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) Any person who delivers electricity to a reseller having an active resale number and complying with al other conditions of the 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 o the Village Treasurer the total amount of electricity delivered to the reseller, and such other information that the Village Treasurer may reasonably require.

SECTION 8

Should any provision of this Ordinance be declared invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining provisions hereof.

SECTION 9

This Ordinance supersedes all Ordinances or parts thereof adopted prior hereto which are in conflict herewith, to the extent of such conflict.

SECTION 10

This Ordinance shall be in full force and effect from and after its passage, approval and publication, as prescribed by law.

ADOPTED this 30th day of June, 2003, by the following roll call vote:

AYES: (4) Verlene Mullens, Lonnie Jarrett, Bennie Walker, JessieMcGee

NAYS: 0

ABSENT: (2)

APPROVED, this 30th day of June, 2003.

Jones E. Dyson, Mayor

ATTEST:

Clerk
Solomon Daniels

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