

23-O-98

AN ORDINANCE

Amending Chapter 2 of Title 3
of the Evanston City Code
To Provide for a Tax on the
Retail Sale of Motor Fuel

WHEREAS, the City of Evanston 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 City 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 CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

SECTION 1: That Chapter 2 of Title 3 of the Evanston City Code, 1979, as amended, be further amended by adding the following new section:

3-2-17: MOTOR FUEL TAX:

3-2-17-1: DEFINITIONS: For the purpose of this paragraph, the following words and phrases shall have the following meaning:

DEALER: Every person engaged in the business of selling motor fuel, and who has an established place of business for such purposes in the City of Evanston.

MOTOR FUEL: All volatile and inflammable liquids produced, blended or compounded for the purpose of, or which are suitable or practicable for, operating motor vehicles. "Motor fuel" includes without limitation gasoline, gasohol, diesel oil, motor

benzol, motor benzene, propane gas fuel, kerosene and "special fuel" as defined in the Illinois Motor Fuel Tax Law.

PERSON: Any individual, trust, estate, firm, partnership, association, corporation, joint venture, joint stock company, receiver, trustee, conservator, legal representative, or other legally recognized entity.

RETAIL SALE: The sale of motor fuel for any good and valuable consideration to a person for use as a consumer.

3-2-17-2: TAX IMPOSED:

A tax is hereby imposed on the retail sale of motor fuel in the City of Evanston at the rate of two cents per gallon. Such tax is to be paid by the purchaser, and nothing in this ordinance shall be construed to impose the tax upon the occupation of selling motor fuel. The ultimate incidence of and liability for payment of said tax shall be borne by the purchaser. It shall be deemed a violation of this ordinance for a seller of motor fuel at retail to fail to add the tax imposed herein to the sale price of motor fuel or to otherwise absorb such tax. The tax shall be in addition to any and all other taxes.

3-2-17-3: REGISTRATION:

Dealers doing business on the effective date of this ordinance shall register with the Finance Director of the City of Evanston within 20 days after such effective date. A person becoming a dealer after the adoption of this ordinance shall register with the Finance Director within 20 days after commencement of business.

3-2-17-4: COLLECTION OF TAX:

The dealer shall have the duty to collect the tax imposed herein from each purchaser. On the 10th day of each month, the dealer shall transmit a report of sale of motor fuel in the previous month to the Finance Director on such form and in the manner prescribed by the Finance Director. Each report of sale of motor fuel shall be accompanied by a remittance of the appropriate amount of tax applicable to the sale reported provided, however, that the dealer may retain an amount of money equal to 3% of the tax due as compensation for services rendered in the collection and payment of such tax. Payment of the tax imposed herein shall be made to the Finance Director.

3-2-17-5: RULES AND REGULATIONS:

The City Manager shall prescribe reasonable rules, definitions and regulations to carry out the duties imposed upon him by this ordinance.

3-2-17-6: INSPECTION OF RECORDS:

The City Manager or such other officer of the City of Evanston as he shall designate shall have the right to inspect all books, records, and reports of all dealers as defined in this ordinance. Such inspection shall take place only during normal business hours of dealers as defined by this ordinance.

3-2-17-7: FAILURE TO PAY TAX:

Any violation of this ordinance shall be punishable by a fine of not less than \$100.00 and not more than \$500.00. It shall be deemed a violation of this ordinance for any person knowingly to furnish false or inaccurate information as required herein.

Criminal prosecutions pursuant to this ordinance shall in no way bar the right of the City to institute civil proceedings to recover delinquent taxes, interest and penalties due and owing as well as costs incurred for such proceedings. Civil penalties assessed pursuant to this ordinance shall not exceed \$500.00 for each offense.

For the purpose of this ordinance interest shall be computed at the rate of one percent (1%) per month from the first day of delinquency. The tax herein required to be collected by any dealer pursuant to this ordinance shall constitute a debt owed by the dealer to the City.

3-2-17-8: SEVERABILITY:

If any one 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 2: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: That this ordinance shall be in full force and effect from and after April 1, 1998, following its passage, approval and publication according to law.

Introduced: February 23, 1998

Adopted: February 23, 1998

Approved: February 24, 1998

Lorraine H. Norton
Mayor

ATTEST:

Mary D. Morris
City Clerk

Approved as to form:

[Signature]
Corporation Counsel