

7/29/20
8/27/20

79-O-20

AN ORDINANCE

Providing for an Infrastructure Maintenance Fee

“Amending Title 3, Business Regulations, Chapter 2, Municipal Occupation Taxes, of the Evanston Municipal Code”

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

SECTION 1 Definitions. Terms, whether capitalized or not, used in this Ordinance are defined pursuant to 65 ILCS 5/8-11-2.

SECTION 2 Imposition of Infrastructure Maintenance Fee. For the privilege of using the public rights of way for the delivery of electricity to consumers located within the corporate limits of the City of Evanston (“City”), a Public Utility (or its successors) that deliver electricity to retail electricity purchasers located to the City shall pay an Infrastructure Maintenance Fee (“Fee”) as provided in this Section 2 on all kilowatt hours of electricity delivered to each retail electricity purchaser located within the corporate limits of such municipality.

1. The Fee collected by a Public Utility from each purchaser of electricity within the corporate limits of the City shall be at the rates identified below and calculated on a monthly basis for each purchaser:
 - a. For the first 2,000 kilowatt hours used or consumed in a month: 0.130 cents per kilowatt hour delivered in the monthly billing period.
 - b. For the next 48,000 kilowatt hours used or consumed in a month: 0.048 cents per kilowatt hour delivered in the monthly billing period.
 - c. For the next 50,000 kilowatt hours used or consumed in a month: 0.045 cents per kilowatt hour delivered in the monthly billing period.
 - d. For the next 400,000 kilowatt hours used or consumed in a month: 0.044 cents per kilowatt hour delivered in the monthly billing period.
 - e. For the next 500,000 kilowatt hours used or consumed in a month: 0.043 cents per kilowatt hour delivered in the monthly billing period.

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- f. For the next 2,00,000 kilowatt hours used or consumed in a month: 0.042 cents per kilowatt hour delivered in the monthly billing period.
- g. For the next 2,00,000 kilowatt hours used or consumed in a month: 0.040 cents per kilowatt hour delivered in the monthly billing period.
- h. For the next 5,000,000 kilowatt hours used or consumed in a month: 0.035 cents per kilowatt hour delivered in the monthly billing period.
- i. For the next 10,000,000 kilowatt hours used or consumed in a month: 0.009 cents per kilowatt hour delivered in the monthly billing period.
- j. For all electricity used or consumed in excess of 20,000,000 kilowatt hours in a month: 0.009 cents per kilowatt hour delivered in the monthly billing period.

SECTION 3 Collection. The Fee imposed by Section 2 on a Public Utility shall be collected from retail electricity purchasers located within the corporate limits of the City. A Public Utility shall add such a Fee to the gross charge for delivering electricity to retail electricity purchasers located within the corporate limits of the City. A Public Utility shall be obligated to pay the complete value of the Fee every month regardless of the Public Utility's collection of the Fee from retail electricity purchasers located within the corporate limits of the City.

SECTION 4 Books and Records.

- 1. A Public Utility which is required to collect a Fee pursuant to Section 2 shall keep accurate books and records of all transactions which may affect the Fee provided for herein including, but not limited to, records of the number of kilowatt hours (kWh) used by each consumer within the City for each month, the charge imposed upon each retail electricity purchaser within the City for each month and the amount actually collected,
- 2. A Public Utility which is required to collect a Fee pursuant to Section 2 shall provide to the City, within seven (7) days of a written request, copies of all records, or any part thereof, which the City requests, which the electricity deliverer is required to keep pursuant to this Ordinance.

SECTION 5 Remittance and Return. A Public Utility which is required to collect a Fee pursuant to Section 2 shall, on a monthly basis file a return with the City in a form prescribed by the City along with the total revenues collected. The return and accompanying remittance shall be delivered to the City on or before the last day of the month following the month during which the tax is collected or is required to be collected under Section 1.

SECTION 6 Reports to the City. On or before the last day of each month, A Public Utility which is required to collect a Fee pursuant to Section 2 shall make a return to the Finance Director for the preceding month stating:

- 1. Legal Name;

2. Principal place of business;
3. Number of kilowatt hours delivered during the months in which the Fee is imposed;
4. Amount of Fee paid; and,
5. Such other reasonable and related information as the City may require.

A Public Utility making the return herein provided for shall, at the time of making such return, pay to the Finance Director the amount of the Fee herein imposed, provided that in connection with any return the person may, if they so elect, report and pay an amount based upon a good faith estimate, with prompt adjustment of later payment based upon any difference between such billings and Infrastructure Maintenance Fee gross receipts.

SECTION 7 Errors. If an excess amount of the Fee that has been paid which was not due under the provisions of this Ordinance, whether as a result of a mistake of fact or and error of law, then such amount shall be credited against any Fees due, or to become due, under this Ordinance from the Public Utility, provided that no amounts erroneously paid more than three (3) years prior to the filing of a claim therefor shall be so credited.

SECTION 8 Recovery Deadline. No action to recover any amount of Fee due under the provisions of this Ordinance shall be commenced more than three (3) years after the due date of such amount.

SECTION 9. Penalty. Any Public Utility that fails to make a return or makes a fraudulent return or willfully violates any other provision of this Ordinance is guilty of a misdemeanor and upon conviction shall be fined not less than \$100.00 nor more than \$200.00 per retail electricity account located within the corporate limits of the City and shall be liable for civil action for the amount of tax due.

SECTION 10. 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 judgement shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 11. All ordinances or parts of ordinances in conflict herewith are hereby released to the extent of such conflict.

SECTION 13. This Ordinance shall be in full force and effect pursuant to 35 ILCS 645/5-5, and after its passage, approval and publication as provided by law.

Introduced: August 10, 2020

Adopted: September 29, 2020

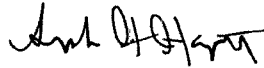
Attest:



Devon Reid, City Clerk

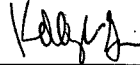
Approved:

April 23, 2021



Stephen H. Hagerty, Mayor

Approved as to form:



Kelley A. Gandurksi, Corporation Counsel