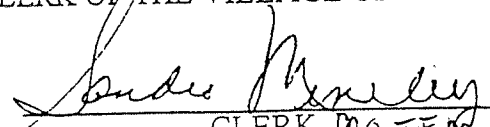


COPY

ADOPTED BY THE
BOARD OF TRUSTEES
OF THE
VILLAGE OF PESOTUM
THIS 2nd DAY OF June, 1999.

PUBLISHED IN PAMPHLET FORM BY AUTHORITY OF THE BOARD OF
TRUSTEES OF THE VILLAGE OF PESOTUM, ILLINOIS,
THIS 2nd DAY OF June, 1999.

CERTIFIED BY THE UNDERSIGNED CLERK OF THE VILLAGE OF PESOTUM,
ILLINOIS THIS DATE.


CLERK PRO TEM

(SEAL)

ORDINANCE NO. 99-3

AN ORDINANCE AMENDING AN ORDINANCE ESTABLISHING A MUNICIPAL UTILITY TAX OF THE VILLAGE OF PESOTUM, PROVIDING FOR A METHOD OF COLLECTING TAXES FOR THE PRIVILEGE OF USING ELECTRICITY BASED UPON KILOWATT HOUR USAGE OF INDIVIDUAL CUSTOMERS

WHEREAS, the Illinois General Assembly has passed legislation, and the governor has signed such legislation into law known as Public Act 90-561 which recognizes that the character of the provision of electricity has changed from a regulated, monopolistic industry to one involving a number of competitive utilities;

WHEREAS, by operation of Public Act 90-561 the Village of Pesotum is required to amend its electric utility tax, changing it from a tax upon gross receipts to a use tax based upon ten categories of usage; and

WHEREAS, the president and Board of Trustees of the Village of Pesotum deem it necessary to amend its ordinance in order to comply with the requirements of Public Act 90-561;

NOW, THEREFORE, BE IT ORDAINED, by the president and Board of Trustees of the Village of Pesotum, Champaign County, Illinois, that the ordinance establishing a Municipal Utility Tax, 1975, as amended, is further amended by this separate ordinance regarding the collection of taxes for the privilege of using electricity based upon kilowatt hour usage of individual customers as follows:

Section 1: A tax is imposed pursuant to Section 8-11-2 of the Illinois Municipal Code on all persons engaged in the following occupations or privileges:

(a) The privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the municipality at the following rates, calculated on a monthly basis for each purchaser:

- (1) For the first 2,000 kilowatt-hours used or consumed in a month, .416 cents per kilowatt-hour;
- (2) For the next 48,000 kilowatt-hours used or consumed in a month, .273 cents per kilowatt-hour;
- (3) For the next 50,000 kilowatt-hours used or consumed in a month, .246 cents per kilowatt-hour;
- (4) For the next 400,000 kilowatt-hours used or consumed in a month, .239 cents per kilowatt-hour;

- (5) For the next 500,000 kilowatt-hours used or consumed in a month, .232 cents per kilowatt-hour;
- (6) For the next 2,000,000 kilowatt-hours used or consumed in a month, .218 cents per kilowatt-hour;
- (7) For the next 2,000,000 kilowatt-hours used or consumed in a month, .215 cents per kilowatt-hour;
- (8) For the next 5,000,000 kilowatt-hours used or consumed in a month, .211 cents per kilowatt-hour;
- (9) For the next 10,000,000 kilowatt-hours used or consumed in a month, .208 cents per kilowatt-hour;
- (10) For the next 20,000,000 kilowatt-hours used or consumed in a month, .205 cents per kilowatt-hour;

(b) Pursuant to 65 ILCS 5/8-12-2, the rates set forth in subsection (a) above shall be effective: (A) on August 1, 1999 for residential customers; and (B) on the earlier of (1) the last bill issued prior to December 31, 2000, or (2) the date of the first bill issued pursuant to 220 ILCS 5/16-104, for nonresidential customers.

(c) Pursuant to 65 ILCS 5/8-11-2, the Ordinance Establishing a Municipal Utility Tax for the Village of Pesotum Section 1(c), as it existed prior to the effective dates stated herein, shall specifically remain in effect: (A) for receipts attributable to residential customers, until July 31, 1999; and (B) for receipts attributable to nonresidential customers, the earlier of (1) through the last bill issued prior to December 31, 2000, or (2) the date of the first bill issued to such nonresidential customer pursuant to 220 ILCS 5/16-104.

(d) The provisions of this section shall not be effective until August 1, 1999.

EXCEPTIONS. None of the taxes authorized by this Article may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privilege 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 or transmitting gas, water, or electricity, or engaged in the business of transmitting messages, or using or consuming electricity acquired in a purchase at retail, be subject to taxation under the provisions of this Article for those transactions that are or may become subject to taxation under the provisions of the Municipal Retailers' Occupation Tax Act as authorized by 65 ILCS 5/8-11-1; nor shall any tax authorized by this Article be imposed upon any person engaged in a business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in

businesses of the same class in the municipality, whether privately or municipally owned or operated, or exercising the same privilege within the municipality. Such tax shall be in addition to other taxes levied upon the taxpayer or its business.

(e) COLLECTION. The tax authorized by this Ordinance shall be collected from the purchaser by the person maintaining a place of business in this State who delivers the electricity to the purchaser. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and if unpaid, is recoverable in the same manner as the original charge for delivering the electricity. Any tax required to be collected pursuant to this Ordinance and any such tax collected by a person delivering electricity shall constitute a debt owed to the municipality by such person delivering the electricity. 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 to reimburse the person delivering electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the municipality upon request. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the municipality in the manner prescribed by the municipality. Person delivering electricity who file returns pursuant to this section shall, at the time of filing such return, pay the municipality the amount of the tax collected pursuant to this Ordinance.

(f) REPORTS TO MUNICIPALITY. On or before the last day of each month, each taxpayer who has not paid the tax imposed by this Ordinance to a person delivering electricity as set forth herein and who is not otherwise exempted from paying such tax shall make a return to the Village Treasurer for the preceding month stating:

- (1) His name.
- (2) His principal place of business.
- (3) His gross receipts and/or kilowatt-hour usage during the month upon the basis of which the tax is imposed.
- (4) Amount of tax.
- (5) Such other reasonable and related information as the corporate authorities may require.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the Village of Pesotum, the amount of tax herein imposed; provided that in connection with any return, the taxpayer may, if he so

elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings, and the taxable gross receipts.

(g) CREDIT FOR OVER-PAYMENT. If it shall appear that an amount of tax has been paid which was not due under the provisions of this Ordinance, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Ordinance from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than three (3) years prior to the filing of a claim therefor shall be so credited.

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

(h) Every tax collector, and every taxpayer required to pay the tax imposed by this Ordinance, shall keep accurate books and records of its business or activity, including contemporaneous books and records denoting the transactions that gave rise, or may have given rise, to any tax liability under this Ordinance. The books and records shall be subject to an available for inspection at all times during business hours of the day.

(i) Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Ordinance is guilty of an ordinance violation and, upon conviction thereof, shall be fined not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) and shall be liable in a civil action for the amount of tax due.

(j) In the event that Public Act 90-561 is declared unconstitutional, or if the provisions and amendments created by this Amending Ordinance are voided by court action, the provisions of Ordinance Establishing a Municipal Utility Tax (commonly known as a Gross Receipts Utility Tax) shall remain in effect in all respects as if it had never been amended by this ordinance, and any amounts paid to the Village by any person delivering electricity pursuant to this Amending Ordinance shall be deemed to have been paid pursuant to the Ordinance Establishing a Municipal Utility Tax as it existed prior to the passage of this Amending Ordinance.

(k) Except as provided herein, the Ordinance Establishing Municipal Utility Tax, 1975, as amended, shall remain in full force and effect.

This Ordinance shall become effective ten days after its passage and approval, and publication which shall be in pamphlet form.

ADOPTED THIS 2nd day of June, 1999, by the President and Board of Trustees of the Village of Pesotum, Champaign, County, Illinois

Ayes:

Dennis Vail
Eve Schaefer
Leonard Reinhart
Scott Morris
Tim Lecher
Sandra Menely

Nays:

Passed and approved this 2nd day of June, 1999

Joseph M. Lecher
Joseph M. Lecher, President

ATTEST

Sandra Menely
Clerk Pro Tem

CERTIFICATION

I hereby certify that the foregoing is a true and correct copy of Ordinance 99-3 amending the Village of Pesotum, Municipal Utility Tax Ordinance.

Sandra Menely
Sandra Menely, Village Clerk,
Pro Tem

