

**VILLAGE OF FOREST VIEW**

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**ORDINANCE NO. 21-11**

**AN ORDINANCE AMENDING SECTION 1-33-19 OF THE  
FOREST VIEW VILLAGE CODE, "VEHICLE FUEL TAX," TO INCREASE  
THE VILLAGE'S VEHICLE FUEL TAX**

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**PASSED AND APPROVED BY THE  
PRESIDENT AND BOARD OF TRUSTEES  
OF THE VILLAGE OF FOREST VIEW,  
COOK COUNTY, ILLINOIS, this 9<sup>th</sup>  
day of November, 2021.**

**Published in pamphlet form  
by authority of the President  
and Board of Trustees of the  
Village of Forest View, Cook  
County, Illinois, this 9<sup>th</sup> day  
of November, 2021.**

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BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE  
VILLAGE OF FOREST VIEW, COOK COUNTY, ILLINOIS, IN THE EXERCISE OF  
THE VILLAGE'S HOME RULE POWERS, as follows:

**SECTION 1: Code Amendment:** Section 1-33-19 of the Forest View Village Code,  
"Vehicle Fuel Tax," is amended by amending subsection (C) to provide as follows [New language  
**bold** faced]:

1-33-19: VEHICLE FUEL TAX:

(A) Title: This section shall be known and cited as the FOREST VIEW VEHICLE FUEL TAX  
ORDINANCE, and the tax imposed herein shall be known and cited as the FOREST VIEW VEHICLE  
FUEL TAX.

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

DISTRIBUTOR OR VEHICLE FUEL DISTRIBUTOR: Any person who produces, refines, blends,  
compounds or manufactures vehicle fuel in the village; or transports or has transported vehicle  
fuel to any location in the village, or receives in the village vehicle fuel on which the village  
vehicle fuel tax has not been paid; or sells vehicle fuel to a retail dealer for resale in the village.  
The term "distributor" shall include any person who transports vehicle fuel into the village or  
receives vehicle fuel in the village for his own use and consumption, and not for sale or resale.

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

RETAIL DEALER OR RETAIL VEHICLE FUEL DEALER: Any person who is engaged in the business  
of selling vehicle fuel in the village to a purchaser for the purchaser's use or consumption, and  
not for resale in any form.

SALE AT RETAIL: Any sale to a person for that person's use or consumption and not for resale to another.

SALE, RESALE OR PURCHASE: 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.

TAX: The village vehicle fuel tax.

USE: 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.

VEHICLE: 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. The term "vehicle" includes, without limitation, automobiles, trucks, buses, trains, motorcycles, boats, airplanes and helicopters.

VEHICLE FUEL: Any volatile and inflammable liquid or gas produced, blended or compounded for the purpose of or which is suitable for operating a vehicle, or which is used in propelling a vehicle. The term "vehicle fuel" includes, without limitation, gasoline, gasohol, diesel oil, motor benzol, motor benzene, propane gas fuel, kerosene and "special fuel" as defined in the motor fuel tax law <sup>1</sup>.

(C) Tax Imposed: A tax is hereby imposed upon the privilege of purchasing or using, in the village, vehicle fuel purchased in a sale at retail. The tax shall be at a rate of ~~four two-cents~~ **(\$0.04 2)** per gallon of vehicle fuel. The ultimate incidence of and liability for payment of the tax shall be upon the purchaser or user of the vehicle fuel, and nothing in this section shall be construed to impose a tax upon the occupation of selling or distributing vehicle fuel. It shall be a violation of this section for any distributor or retail dealer to fail to add this tax to the retail price of vehicle fuel or to absorb the tax. The tax shall be in addition to any and all other taxes.

(D) Payment On Retail Purchase: The term "use in the village" shall be deemed to occur only at the place in the village where the vehicle fuel is transferred into the vehicle by which it is to be consumed. To the extent that a person has paid the tax imposed in this section on the retail purchase of vehicle fuel, he/she shall be exempt from the payment of and liability for the tax on the use of such fuel.

(E) Collection:

1. The village vehicle fuel tax shall be collected by each vehicle fuel distributor who sells such fuel to a retail vehicle fuel dealer doing business in the village. Any distributor who shall pay the tax to the village shall collect the tax from any retail dealer to whom the distributor sells vehicle fuel. The retail dealer shall in turn then collect the tax from the purchaser of the vehicle fuel. Any distributor who sells vehicle fuel directly to a purchaser or user, for delivery in the village, and not for resale, shall collect the tax from the purchaser or user.

2. The retail dealer shall in turn then collect the tax from the purchaser of the vehicle fuel. Any distributor who sells vehicle fuel directly to a purchaser or user, for delivery in the village, and not for resale, shall collect the tax from the purchaser or user.

3. If any retailer receives vehicle fuel upon which the village vehicle fuel tax has not been collected by the distributor, the retail dealer shall remit such tax directly to the village clerk by the last day of the month following the month in which he received such vehicle fuel, and shall collect such tax from his purchasers.

4. If any purchaser or user receives vehicle fuel upon which the village vehicle fuel tax has not been collected by the distributor or retail dealer, such purchaser or user shall pay the tax directly to the village by the last day of the month following the month in which such purchaser or user made the taxable purchase or use of the vehicle fuel.

5. Any tax remittance required to be made directly to the village shall be made to the village clerk and shall be accompanied by a remittance form prescribed by the village clerk.

6. Any person who collects the village vehicle fuel tax shall do so as a trustee for and on account of the village.

(F) Registration; Return; Filing: Every vehicle fuel distributor doing business on January 1, 2010, shall register with the village clerk by January 31, 2010. Every person who becomes a distributor after that date shall register with the village clerk within thirty (30) days after the commencement of such business. Every distributor shall file each month with the village clerk a remittance return, containing a report of his sales of vehicle fuel to retail dealers or users in the village occurring in the prior month. The return shall be in a form prescribed and furnished by the village clerk. If mailed, the return must be postmarked on or before the last day of the month following the month for which the report is due. Each such return shall be accompanied by a remittance of the appropriate amount of tax applicable to the sales reported. Payment shall be made to the village clerk.

(G) Inventory Report: By January 31, 2010, every retail vehicle fuel dealer shall file with the village clerk, on forms supplied by the village clerk for that purpose, an inventory of all vehicle fuel in the retail dealer's possession on January 1, 2010, at one minute after twelve o'clock (12:01) A.M. The owner or chief executive officer of the retail dealer shall sign the inventory report and attest under oath to its accuracy.

With the inventory report, the retail dealer shall pay to the village the village vehicle fuel tax due on the sale of all vehicle fuel in the retail dealer's possession on January 1, 2010, at one minute after twelve o'clock (12:01) A.M. and for which such tax has not been collected on behalf of the village by a vehicle fuel distributor.

(H) Failure To Pay Or File; Penalties And Interest:

1. Failure to pay or remit the tax or to file the remittance return required by this section shall be subject to the following penalties and interest:

(a) Any tax not paid or remitted when due shall bear an interest at the rate of two percent (2%) per month, or fraction thereof, until the tax is paid or remitted.

(b) In addition to any interest charged, any person who fails to pay or to remit the tax when due shall be subject to a late penalty of ten percent (10%) of such tax.

(c) In addition to any interest or penalty charged in subsection (l)1(b) of this section, any person who fails to file a remittance return when due shall be subject to a late filing penalty of ten percent (10%) of the total tax liability due under the reporting period.

2. When the failure to pay or remit the tax or to file the remittance return in a timely manner is due to reasonable cause beyond the control of the person in charge with filing and paying the tax, the penalties described in subsections (l)1(b) and (l)1(c) of this section may be waived by the village clerk.

(l) Recordkeeping: Every distributor and every retail dealer required to collect and remit the tax imposed in this section shall keep accurate and complete books and records of his business of selling vehicle fuel, including the maintenance of all invoices and other source documents. Every purchaser or user shall keep accurate and complete books and records of his purchases and uses of vehicle fuel in the village, including the maintenance of all invoices and other source documents. All books and records shall be subject to inspection by the village clerk or duly authorized agents or employees thereof, at all times during regular business hours.

(J) Sales and Uses Presumed Taxable; Burden Of Proof: It shall be presumed that all sales and uses of vehicle fuel in the village are subject to tax under this section until the contrary is established. The burden of proving that a sale or use is not taxable hereunder shall be upon the distributor, retail dealer, purchaser or user so claiming.

(K) Exemptions: The tax imposed by this section shall not apply to the following sales or uses of vehicle fuel:

1. Sale by a distributor to another distributor holding a valid registration certificate.
2. Sale by a distributor or retailer of vehicle fuel whose place of business is outside the village.
3. Sale or use for purposes other than for propulsion or operation of a vehicle.
4. Sale or use by any transportation agency as defined in the regional transportation authority act <sup>2</sup>, which is operated by, receiving a grant from or has a service agreement with the regional transportation authority or any of its service boards.
5. Sale of use to the extent the tax imposed by this section would violate the state or United States constitution.
6. Sale to or use by the federal government or any state or local governmental body.
7. Sale to or use by any air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight destined for a destination outside the United States. (Ord. 09-09, 11-24-2009, eff. 1-1-2010)

**SECTION 2: Home Rule.** This Ordinance and each of its terms shall be the effective legislative act of a home rule municipality without regard to whether such ordinance should (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law, or (b) legislate in a manner or regarding a matter not delegated to municipalities by state law. It is the intent of the corporate authorities of the Village of Forest View that to the extent that the terms of this Ordinance should be inconsistent with any non-preemptive state law, that this Ordinance shall supersede state law in that regard within its jurisdiction.

**SECTION 3: Effective Date; Implementation.** This Ordinance shall be in full force and effect from and after its passage and approval and shall subsequently be published in pamphlet form as provided by law. The increased tax imposed by this Ordinance shall go into effect on January 1, 2022.

PASSED BY THE FOLLOWING ROLL CALL VOTE this 9<sup>th</sup> day of November, 2021.

AYES: Trustees, Grossi, Sudkamp, Hubacek, Ramirez, Navarez

NAYS: Trustee Liska

ABSENT: None

APPROVED this 9<sup>th</sup> day of November, 2021.

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Nancy L. Miller  
Village President

ATTEST:

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Laura D. McGuffey  
Village Clerk