

**CITY OF AURORA, ILLINOIS**  
**ORDINANCE NO.** \_\_\_\_\_  
**DATE OF PASSAGE** \_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 44 OF THE CITY AURORA CODE OF  
ORDINANCES TO ADD A NEW ARTICLE II ENTITLED  
“MUNICIPAL MOTOR FUEL TAX”**

**WHEREAS**, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

**WHEREAS**, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals and welfare; and

**WHEREAS**, pursuant to the City’s home rule authority, the City desires to impose a motor fuel tax of \$0.04 cents per gallon on all retail sales of motor fuel, except for the specific exemptions stated herein; and

**WHEREAS**, the Council finds that the herein City Code amendment imposing a motor fuel tax furthers the public health, welfare and safety, and is in the best interests of the City, its residents and the public.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Aurora, Illinois, as follows:

**Section One**: That a new Article II entitled “Municipal Motor Fuel Tax” be added to Chapter 44 as follows:

**ARTICLE II. MUNICIPAL MOTOR FUEL TAX**

**Sec. 44-11. Definitions.**

For purposes of this Article, the following words and phrases shall have the meaning ascribed to them in this section:

*Motor Fuel* means all volatile liquids compounded or used for fueling motor vehicles, including gasoline, gasohol, compressed natural gas and diesel fuel.

*Motor Fuel Retailer* means any person, firm or corporation engaged in the business of selling motor fuel at retail, and not for resale.

**Sec. 44-12. Tax imposed.**

There is hereby imposed and levied a tax within the City of Aurora upon the retail purchase of motor fuel, at the rate of four cents (\$0.04) per gallon or fraction thereof. This tax shall be in addition to any and all other taxes. The ultimate incidence and liability for payment of such tax shall be upon the retail purchaser of motor fuel; the collection of the tax is the responsibility of the motor fuel retailer. Nothing herein shall be construed to impose a tax upon the occupation of selling motor fuel. It shall be a violation of this Article for any motor fuel retailer to refuse or fail to add this tax to the retail price of motor fuel or to absorb the tax out of the motor fuel retailer's own funds.

**Sec. 44-13. Allocation of funds collected.**

All monies collected pursuant to this article shall be allocated to the Municipal Motor Fuel Tax Fund for the maintenance and improvement of streets and roadways.

**Sec. 44-14. Collection of tax.**

Each motor fuel retailer in the City shall have the duty to collect the motor fuel tax from each purchaser and to pay said tax over to the City of Aurora, along with an accounting therefor, on return forms provided by the City. All return forms and tax payments shall be filed with the Chief Financial Officer or his designee in the Finance Department on the same filing dates as are established for filing with the Illinois Department of Revenue of the Sales and Use Tax Return Form ST-1, and shall be accompanied by a copy of the executed, filed Form ST-1 for the applicable period.

**Sec. 44-15. Registration and maintenance of records.**

Each motor fuel retailer shall register with the City on forms provided by the Chief Financial Officer. Each motor fuel retailer shall have the duty to maintain complete and accurate books, records and accounts showing the gross receipts for the sale of motor fuel and the taxes collected from the purchaser thereof for a period of at least twenty-four (24) months, which shall be available to the Chief Financial Officer or his designee for examination and for audit by the City upon reasonable notice during customary business hours.

**Sec. 44-16. Sales presumed taxable; burden of proof; exemptions.**

- A. It shall be presumed that all sales of motor fuel in the City are subject to tax under this Article until the contrary is established. The burden of proving that a sale is not taxable hereunder shall be upon the motor fuel retailer, purchaser or user so claiming.
- B. The tax imposed shall not apply to the following sales:
  - 1. Sale or use by the federal government or any state or local governmental body;
  - 2. Sale to the extent the tax imposed by this Article would violate the Illinois or State Constitution.

**Sec. 44-17. Late payment penalty; commission if timely.**

A commission of two and one-tenth percent (2.1%) may be deducted from the amount of tax due if payment is made on a timely basis. If any tax imposed by this Article is not paid over to the City when due, a late payment penalty equal to seven and one-half percent (7.5%) of the unpaid tax, plus one and one-quarter percent (1.25%) interest, shall be added for each month or any portion thereof that such tax remains unpaid. The total of such late payment penalty and interest shall be paid along with the tax imposed hereby. The City may choose to bring legal or other collection action to collect any unpaid tax or penalty.

**Sec. 44-18. Penalty/fines.**

In addition to any other penalty, any person violating any provision of this Article, upon conviction thereof, shall be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) for each such offense. Each failure to collect the tax imposed hereby and each failure to pay such tax over to the City shall constitute a separate violation hereof.

**Sec. 44-19. Administrative hearing.**

The City may choose to use the administrative hearing process in order to enforce any provision of this article, and likewise, any person wishing to contest a penalty/fine arising under this article may request an administrative hearing. Such administrative hearings shall be conducted in accordance with 65 ILCS 5/1-2.1.

**Section Two:** That this ordinance shall be in full force and effect, and shall be controlling, upon its passage and approval, with a first collection date of February 1, 2016.

**Section Three:** That all ordinances or parts of ordinances thereof in conflict herewith are hereby repealed to the extent of any such conflict.

**Section Four:** That any Section or provision of this Ordinance that is construed to be invalid or void shall not affect the remaining Sections or provisions, which shall remain in full force and effect thereafter.

**PASSED** by the City Council of the City of Aurora, Illinois on \_\_\_\_\_.

**APPROVED AND SIGNED** by the Mayor of the City of Aurora, Illinois on \_\_\_\_\_, 2015.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

City of Aurora  
Law Department  
44 East Downer Place  
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(630) 256-3060