

ARTICLE III. MOTOR FUEL TAX*

***Editor's note:** Ord. No. 06-3114, adopted Feb. 6, 2006, amended art. III, §§ 27-61--27-68, in its entirety to read as herein set out. Former art. III pertained to similar subject matter and derived from Ord. No. 85-996, adopted Mar. 18, 1985 and Ord. No. 98-1814, adopted Apr. 20, 1998.

Sec. 27-61. Title.

This article shall be known as cited as the "Motor Fuel Tax Ordinance of the City of Galesburg, Illinois".

(Ord. No. 06-3114, § 1, 2-6-06)

Sec. 27-62. Definitions.

For purposes of this article, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this section:

Bulk user shall mean any person who purchases motor fuel for storage in bulk storage facilities located within the city, which facilities are owned, leased, or controlled by the person, for subsequent dispensing into the supply tanks of internal combustion engines operated by the person.

Gasahol shall mean a fuel used chiefly in internal combustion engines which is comprised chiefly of gasoline and ethyl alcohols in variable quantities.

Gasoline or *diesel fuel* shall mean a volatile, highly flammable or combustible, liquid mixture of hydrocarbons produced by the fractional distillation of petroleum and used chiefly as a fuel in internal combustion engines, but shall not include mixtures commonly known as kerosene and aviation fuel, or mixtures used in the heating of buildings.

Motor fuel shall mean gasahol and gasoline and diesel fuel as defined in this section; provided, however, that the term "motor fuel" shall not include diesel fuel used in railroad locomotive engines.

Person shall mean any natural person, trustee, court appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agency, contractor, supplier, vendor, vendee, operator, user, or owner, or any officers, agents, employees, or other representative, acting either for himself or for any other person in any capacity, or any other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular, or plural is included in any circumstances.

Retail gasoline dealer shall mean any person who engages in the business of selling motor fuel in the city, to a purchaser for use or consumption and not for resale in any form.

Sale, resale and *selling* shall mean any transfer of ownership or possession, or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever for a valuable consideration.

(Ord. No. 06-3114, § 1, 2-6-06)

Sec. 27-63. Tax imposed.

(a) There is levied and imposed upon the purchase of each gallon of motor fuel, or fraction thereof sold at retail within the corporate limits of the city, irrespective of the unit of measure in which it is actually sold, a tax at the rate of two and one-half cents (\$0.025) per gallon. The tax herein levied shall be paid in addition to any and all other taxes and charges, but such other taxes and charges shall not be construed as part of the purchase price upon which the tax herein is levied. The maximum tax imposed on any individual bulk user under this article shall be seven hundred fifty dollars (\$750.00) per calendar year.

(b) The ultimate incidence of and liability for payment of the tax is to be borne by the retail purchaser of motor fuel. Nothing in this article shall be construed to impose a tax upon the occupation of persons engaged in the retail sale of motor fuel.

(c) It shall be the duty of every retail gasoline dealer to secure the tax from the purchaser at the time the dealer collects the purchase price for the motor fuel and to pay over the tax to the finance department as provided in this article except in the case of a sale to a bulk user, in which case the bulk user shall pay over the tax to the department as provided in this article.

(d) A retail gasoline dealer may make tax free sales with respect to which he is otherwise required to collect the tax when the sale is made to the federal government, the State of Illinois, any municipality, or unit of local government as those terms are defined by Section 1 of Article VII of the Constitution of the State of Illinois of 1970, or any school district.

(Ord. No. 06-3114, § 1, 2-6-06; Ord. No. 06-3122, § 1, 4-17-06)

Sec. 27-64. Tax and report transmittal.

(a) Every retail gasoline dealer shall transmit to the finance department for receipt by the department no later than the last day of each calendar month, a sum of money equal to the amount of motor fuel tax collected for the preceding calendar month, accompanied by a report upon forms supplied by the finance department, indicating the gross gallons of motor fuel sold for the preceding calendar month, and such other information as the department may require for enforcement of this article.

(b) (1) Except as otherwise provided in subsection 27-64(b)(2), every bulk retail gasoline dealer shall transmit to the finance department for receipt by the department no later than the last day of each calendar month, a sum of money equal to the amount of motor fuel tax collected for the preceding calendar month, accompanied by a report upon forms supplied by the finance department, indicating the gross gallons of motor fuel sold for the preceding calendar month, and such other information as the department may require for enforcement of this article.

(2) Any bulk user which has paid the maximum tax imposed under this article on bulk users for any calendar year shall not be required to file further, or any, reports required under subsection 27-64(b)(1) for that calendar year.

(c) In case any person who is required under this article to file a tax return to the city fails to file a return when and as required under this article, such person shall pay to the city, in addition to the amount of tax required to be transmitted, a penalty of five (5) percent of the tax that such person is required to transmit to the city provided, however, a twenty (20) percent penalty shall be imposed for any fraudulent failure to transmit such tax.

(1) In case any person who is required under this article to file a tax return to the city files a return at the time required but fails to transmit the tax proceeds, or any portion thereof to the city when due, a penalty of five (5) percent of the amount of tax not transmitted to the city shall be added thereto; provided, however, the fraudulent failure to pay such tax shall result in a twenty (20) percent penalty.

(2) In addition to any penalty for which provision is made in this article, any amount of tax not transmitted when due shall bear interest at the rate of two (2) percent per month, or fraction thereof, until fully transmitted.

(d) Any officer or employee of any corporation which is an owner subject to the provisions of this article who has the control, supervision or responsibility of collecting tax proceeds, filing returns and transmitting collected tax proceeds of the tax imposed by this article and who willfully fails to file such return or to transmit any tax proceeds so collected to the city shall be personally liable for any such amounts collected, including interest and penalties thereon, if after proper proceedings for the collection of such amount such corporation is unable to pay such amounts to the city, and the personal liability of such officer or employee, as provided in this article, shall survive dissolution of the corporation. For purposes of this subsection, a person willfully fails to act if he takes any conscious and voluntary action intending not to perform any of his obligations hereunder, but not limited to, the utilizing of tax proceeds collected for the city to pay any other corporate obligations.

(Ord. No. 06-3114, § 1, 2-6-06; Ord. No. 06-3122, § 2, 4-17-06)

Sec. 27-65. Records; inspection.

(a) Every retail gasoline dealer shall keep complete and accurate records, including a daily sheet showing the gross gallons of motor fuel sold for each day, and the amount of motor fuel tax collected on each day.

(b) Every bulk user shall keep complete and accurate records of purchases of motor fuel, including the dates of purchases, the gross gallons purchased on each of the dates, and the names and addresses of the retail gasoline dealers from whom each of the purchases were made.

(c) For the purpose of administering and enforcing this article, the finance department shall have the right to inspect all books, records, and reports of retail gasoline dealers and bulk users during their normal business hours.

(Ord. No. 06-3114, § 1, 2-6-06)

Sec. 27-66. City gas tax fund.

(a) The office of the finance department shall deposit the proceeds of the city gas tax imposed by this article into a separate fund created by that office and designated "city gas tax fund." The office of the finance department shall deposit investment earnings and other monies credited to the city gas tax fund into such fund.

(b) The city gas tax fund shall be a specifically designated fund for the express purpose of capital improvements, including street construction and rehabilitation, curb and gutter work, storm sewer, sidewalk and other street-related improvements. By a majority vote of the corporate authorities, the city gas tax fund may be pledged by the city as security for the repayment of monies borrowed by the city to be used for capital improvement as defined in this section.

(Ord. No. 06-3114, § 1, 2-6-06)

Sec. 27-67. Reserved.

Editor's note: Ord. No. 07-3209, adopted Nov. 19, 2007, deleted § 27-67, which pertained to

termination of tax and derived from Ord. No. 06-3114, adopted Feb. 6, 2006.

Sec. 27-68. Effective date.

The motor fuel tax shall be levied, imposed, and collected from the first day of the month after the effective date of this article.

(Ord. No. 06-3114, § 1, 2-6-06)

Secs. 27-69--27-135. Reserved.