

**VILLAGE OF LODA  
IROQUOIS COUNTY, ILLINOIS**

**ORDINANCE 2015-06**

**AN ORDINANCE PERTAINING TO THE MUNICIPAL UTILITY TAX/  
MUNICIPAL ELECTRIC UTILITY TAX AND CLARIFYING AND  
AMENDING ORDINANCE 1998-09**

WHEREAS, prior hereto on or about the 23<sup>rd</sup> day of November 1998, the Village of Loda adopted Ordinance 1998-09 being an ordinance amending the Municipal Utility Tax Ordinance No. 256 in adopting the Municipal Electrical Utility Tax.

WHEREAS, the present Village Board of the Village of Loda finds it in the best interest of the said Village to clarify said ordinance by amendment to clearly specify that accounts of the Village of Loda should be exempt from the taxes imposed by the said ordinance.

NOW THEREFORE, be it ordained by the President and Board of Trustees of the Village of Loda, Iroquois County, Illinois as follows;

1. That prior ordinance 1998-09 be and is hereby amended to read in words and figures as follows;

SECTION 1. REPEAL. Paragraph c of Section 1 of Ordinance No. 256 entitled "MUNICIPAL UTILITY TAX" be, and the same is, hereby repealed effective: 9a) on January 1, 1999, for residential customers; and (b) on the earlier of (1) the last bill issued prior to December 31, 2000, or (2) the date of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.

SECTION 2. TAX IMPOSED.

(A) A tax is imposed on all persons engaged in the following occupations or privileges:

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

(i) For the first 2,000 kilowatt-hours used or consumed in a month; 00.261 cents per kilowatt hours;

(ii) For the next 48,000 kilowatt-hours used or consumed in a moth; 00.171 cents per kilowatt-hour;

(iii) For the next 50,000 kilowatt-hours used or consumed in a month; 00.154 cents per kilowatt-hour;

(iv) For the next 400,000 kilowatt-hours used or consumed in a month; 00.150 cents per kilowatt-hours;

(v) For the next 500,000 kilowatt-hours used or consumed in a month; 00.145 cents per kilowatt-hour;

(vi) For the next 2,000,000 kilowatt-hours used or consumed in a month; 00.137 cents per kilowatt-hours;

(vii) For the next 2,000,000 kilowatt-hours used or consumed in a month; 00.135 cents per kilowatt-hour;

(viii) For the next 5,000,000 kilowatt-hours used or consumed in a month; 00.132 cents per kilowatt hour;

(ix) For the next 10,000,000 kilowatt-hours used or consumed in a month; 00.130 cents per kilowatt-hour; and

(x) For all electricity used or consumed in excess of 20,000,000 kilowatt-hours in a month; 00.128 cents per kilowatt-hour.

The tax rates set forth in the preceding table will be used at least through December 31, 2008, are proportional to the rates enumerated in 65 ILCS 5/8-11-2 (as modified by Public Act 90-561).

(B) Pursuant to 65 ILCS 5/8-11-2, the rates set forth in subsection (a) above shall be effective: (a) on January 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) The provisions of Section 2 shall not be effective until January 1, 1999.

**SECTION 3. EXCEPTIONS.** None of the taxes authorized by the Ordinance 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 subject of taxation by the State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, or selling or transmitting electricity or using or consuming electricity acquired in a purchase at retail, be subject to taxation under the provisions of this Ordinance for those transactions that are or may become subject to taxation under the provisions of the "Municipal Retailers' Occupation Tax Act" authorized by Section 8-11-1; nor shall any tax authorized by this Ordinance be imposed upon any person engaged in a business or any privilege unless the tax is imposed in like manner and at the same rate upon all person 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. Any and all accounts of the Village of Loda are and shall be exempted from the tax imposed by this ordinance and its predecessor ordinance

SECTION 4. ADDITIONAL TAXES. Such tax shall be in addition to other taxes levied upon the taxpayer or its business.

SECTION 5. COLLECTION. The tax authorized by this Ordinance shall be collected from the purchaser by the person maintain 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 the 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. Persons 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.

SECTION 6. REPORTS TO MUNICIPALITY. On or before the last day of each month, each taxpayer shall make a return to the Village for the preceding month stating

- (A) His name.
- (B) His principal place of business.
- (C) His gross receipts and/or kilowatt-hour usage during the month upon the basis of which the tax is imposed.
- (D) Amount of Tax.
- (E) 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 the Village of Loda, 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.

SECTION 7. 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 therefore 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.

SECTION 8. PENALTY. 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 a misdemeanor and, upon conviction thereof, shall be fined not less than **One Hundred Dollars (\$100.00)** nor more than **Two Hundred Dollars (\$200.00)** in addition, shall be liable in a civil action for the amount of tax due. (See 65 ILCS 5/8-11-2).

SECTION 9. CONSTITUTIONALITY. In the event that Public Act 90-561 is declared unconstitutional, or if Section 2 of this Ordinance is voided by court action, the provisions of Paragraph c of Section 1 of Ordinance No 256 entitled "MUNICIPAL UTILTIY TAX" shall remain in effect in all respects as if it had never been amended by Section 1 of this Ordinance, and any amounts paid to the Village by any person delivering electricity pursuant to this Ordinance shall be deemed to have paid pursuant to the Ordinance No. 256 as it existed prior to the passage of this ordinance.

2. That except as here above amended, said Ordinance to remain in full force and effect.

3. PUBLICATION. The Village Clerk is authorized and directed to post, this Ordinance as provided by law.

4. EFECTIVE DATE. The Ordinance shall become effective as of its adoption, approval and publication as provided by law, but shall be deemed to apply retroactively to all time pertaining to prior Ordinance 1998-09 as a clarification of said Ordinance.