

ORDINANCE NO. 931

AN ORDINANCE TO REVISE ARTICLE IV OF CHAPTER 36 OF THE VILLAGE OF COBDEN, UNION COUNTY, ILLINOIS REVISED CODE OF ORDINANCES

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF COBDEN, UNION COUNTY, ILLINOIS, THAT

SECTION 1: Article IV of Chapter 36 is amended to read as follows:

**ARTICLE IV
ELECTRICITY TAX**

36-4-1 TAX IMPOSED.

(a) A tax imposed on all persons, businesses or entities using or consuming electricity within the corporate boundaries of the Board of Trustees of the Village of Cobden:

- (i) For the first 2,000 kilowatt-hours used or consumed in a month; 00.610 cents per kilowatt-hour;
- (ii) For the next 48,000 kilowatt-hours used or consumed in a month; 00.400 cents per kilowatt-hour;
- (iii) For the next 50,000 kilowatt-hours used or consumed in a month; 00.360 cents per kilowatt-hour;
- (iv) For the next 400,000 kilowatt-hours used or consumed in a month; 00.350 cents per kilowatt-hour;
- (v) For the next 500,000 kilowatt-hours used or consumed in a month; 00.340 cents per kilowatt-hour;
- (vi) For the next 2,000,000 kilowatt-hours used or consumed in a month; 00.320 cents per kilowatt-hour;
- (vii) For the next 2,000,000 kilowatt-hours used or consumed in a month; 00.315 cents per kilowatt-hour;
- (viii) For the next 5,000,000 kilowatt-hours used or consumed in a month; 00.310 cents per kilowatt-hour;
- (ix) For the next 10,000,000 kilowatt-hours used or consumed in a month; 00.305 cents per kilowatt-hour;
- (x) For all electricity used or consumed in excess of 20,000,000 kilowatt-hours in a month; 00.300 cents per kilowatt-hour.

(b) The provisions of Section (a) shall not be effective until February 1, 2016.

36-4-2 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 sub-division 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 business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in business of the same in the municipality, whether privately or municipally owned or operated, or exercising the same privilege within the municipality.

36-4-3 ADDITIONAL TAXES. Such tax shall be in addition to other taxes levied upon the person, entity or business.

36-4-4 COLLECTION. The tax authorized by this Article 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 Article and any such tax collected by a person delivering electricity shall constitute a debt owed to the municipality by such person delivering the electricity. Person delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Person delivering 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 purchasers 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 Article.

36-4-5 REPORTS TO THE MUNICIPALITY – TAXPAYER. On or before the last day of each month, each taxpayer who has not paid the tax imposed by this Article to a person delivering electricity as set forth in Section 4 and who is not otherwise exempted from paying such tax shall make a return to the Village Treasurer 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 to the Board of Trustees of the Village of Cobden, the amount of tax 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 amount previously billed) with prompt adjustments of later payments based upon any difference between such billings, and the taxable gross receipts.

36-4-6 REPORTS TO THE MUNICIPALITY – TAX COLLECTOR. On or before the last day of each month, each tax collector shall make a return to the Village Treasurer 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.

36-4-7 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 Article, 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 Article for 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 Article shall be commenced more than three (3) years after the due date of such amount.

36-4-8 PENALTY. Any taxpayer who fails to make a return or who makes a fraudulent return, or who willfully violates any other provision of this Article in an amount up to Five Hundred Dollars (\$500.00) in addition, shall be liable in a civil action for the amount of tax due (See 65 ILCS 5/8-11-2).

36-4-9 AMENDATORY ORDINANCE. In the event that Public Act 90-561 is declared unconstitutional, the provision shall remain in effect in all respects as if it had never been amended by this ordinance, any amounts paid to the Village by any person delivering electricity pursuant to this Amendatory Ordinance shall be deemed to have been paid pursuant to the Gross Receipts Utility Tax as it existed prior to the passage of this Amendatory Ordinance.

36-4-10 VILLAGE ACCOUNT(S) EXEMPT. Any account(s) of the Village of Cobden shall be exempt from the taxes imposed by this Ordinance.

SECTION 2. The Village Clerk is authorized to publish this ordinance as provided by law.

SECTION 3. Except as modified herein, other ordinances of the Board of Trustees of the Village of Cobden shall remain the same and in full force and effect.

Passed this 7th day of December, 2015.

Approved this 7th day of December, 2015.

Paul Z. Tomazzoli., Village President

ATTEST:

Karen M. Winzenburger, Village Clerk

RECORD OF VOTE – ORDINANCE NO. 931:

Ayes: 6 – J. Britt, P. Brumleve, A. Gomez, D. Maze, E. Pearson, D. Stewart
Nays: 0 – None
Absent: 0 – None