

CITY OF NOKOMIS

ORDINANCE NO. 2067

FILED
AUG 26 2020
Sandy Leithuser COUNTY CLERK

**AN ORDINANCE AMENDING
CHAPTER 36 – ARTICLE III
OF THE CODE OF ORDINANCES
FOR THE
CITY OF NOKOMIS, ILLINOIS**

**ADOPTED BY THE
COUNCIL
OF THE
CITY OF NOKOMIS, ILLINOIS**

THIS 24TH DAY OF AUGUST, 2020

**Published in pamphlet form by authority of the City Commissioners of
the City of Nokomis, Montgomery County, Illinois this 24th day of
August, 2020.**

COPY

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CITY OF NOKOMIS

22 South Cedar Street

Nokomis, IL 62075-1663

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Email: rachel@cityofnokomis.com

Mayor • City of Nokomis
Michael Holliday

Commissioner of Finance
Louis Stauder

Commissioner of Streets & Alleys
Derek Durbin

Commissioner of Public Property
Ann Brookshire

Commissioner of Public Health & Safety
Jonathan Nash

August 25, 2020

Sandy Leitheiser
Montgomery County Clerk
PO Box 595
Hillsboro IL 62049

Dear Sandy:

I have enclosed one original copy of **ORDINANCE NO. 2067 –AN ORDINANCE AMENDING SECTION 36- ARTICLE III TAXATION OF THE MUNICIPAL CODE OF THE CITY OF NOKOMIS, MONTGOMERY COUNTY, ILLINOIS** And one copy of the cover page to be file stamped and returned. This Ordinance was passed at the August 24, 2020 Council meeting. Please return one stamped copy to me for City files after you sign and file-stamp it. I have enclosed an envelope for your convenience.

Please let me know if you need any additional information.

Sincerely,

Rachel Hill
City Clerk

EXHIBIT "A"

ARTICLE III

ELECTRICITY TAX

36-3-1 **TAX IMPOSED.** A tax is imposed on all persons engaged in the following occupations or privileges:

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

(1)	First 2,000 KWH	0.61 cents per KWH
(2)	Next 48,000 KWH	0.40 cents per KWH
(3)	Next 50,000 KWH	0.36 cents per KWH
(4)	Next 400,000 KWH	0.35 cents per KWH
(5)	Next 500,000 KWH	0.34 cents per KWH
(6)	Next 2,000,000 KWH	0.32 cents per KWH
(7)	Next 2,000,000 KWH	0.315 cents per KWH
(8)	Next 5,000,000 KWH	0.310 cents per KWH
(9)	Next 10,000,000 KWH	0.305 cents per KWH
(10)	Over 20,000,000 KWH	0.300 cents per KWH

(B) Pursuant to **65 ILCS 5/8-11-2**, the rates set forth in subsection (A) above shall be effective **January 1, 2021**.

36-3-2 **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 subdivision 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 Retailer's 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 a business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in businesses of the same class in the Municipality. All accounts of the City shall be exempt from the taxes imposed by this Ordinance.

36-3-3 **ADDITIONAL TAXES.** Such tax shall be in addition to other taxes levied upon the taxpayer or its business.

36-3-4 **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 City 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 delivering the electricity. Persons delivering electricity shall also be authorized to add to such gross charge an amount equal to **three percent (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 City upon request. If the person delivering the electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the City in the manner prescribed by the City. Persons delivering electricity who file returns pursuant to this Section shall, at the time of filing such return, pay the City the amount of the tax collected pursuant to this Article.

36-3-5 **REPORTS TO CITY.** 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 36-3-4** and who is not otherwise exempted from paying such tax shall make a return to the City 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 City, 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.

36-3-6 **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 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 therefor 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.

36-3-7 **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 is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than **One Hundred Dollars (\$100.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** in addition, shall be liable in a civil action for the amount of tax due. **(See 65 ILCS 5/8-11-2)**

36-3-8 **UNCONSTITUTIONAL.** In the event that Public Act 90-561 is declared unconstitutional, or if **Section 36-3-1 of Article III** created by this Ordinance is voided by court action, the provisions of the City Code commonly known as the Gross Receipts Utility Tax shall remain in effect in all respects as if it had never been amended by this Ordinance, and any amounts paid to the City by any person delivering electricity pursuant to this 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.

ORDINANCE NO. 2067

AN ORDINANCE AMENDING CHAPTER 36 – TAXATION OF THE REVISED CODE OF ORDINANCES FOR THE CITY OF NOKOMIS, MONTGOMERY COUNTY, ILLINOIS.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NOKOMIS, MONTGOMERY COUNTY, ILLINOIS, THAT:

SECTION 1: Amendment. Chapter 36 of the "Revised Code of Ordinances" for the City of Nokomis, Montgomery County, Illinois shall be amended as follows:

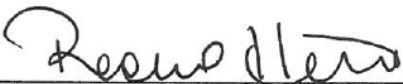
[SEE EXHIBIT "A" FOLLOWING]

SECTION 2: Severability of Provisions. Each section, paragraph, sentence, clause and provision of this Ordinance is severable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of the Ordinance, nor any part thereof, other than that part affected by such decision.

SECTION 3: Conflicting Ordinances. Any conflicting ordinances, code provisions or pertinent portions thereof in effect at the time this ordinance takes effect are hereby repealed.

SECTION 4: Effective. This Ordinance shall be in full force and effect ten (10) days from and after its passage, approval, and publication in pamphlet form as provided by law.

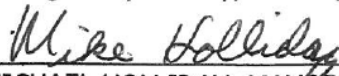
SECTION 5: Passed this 24th day of August, 2020 by the Council of the City of Nokomis, Montgomery County, Illinois, and deposited and filed in the office of the City Clerk in said City on that date.




RACHEL HILL, CITY CLERK
NOKOMIS, ILLINOIS

NAME	AYE	NAY	ABSTAIN	ABSENT	CONFLICT
Louis Stauder					
Ann Brookshire					
Derek Durbin					
Jonathan Nash					
Michael Holliday, Mayor					

Signed by the Mayor of the City of Nokomis, Montgomery County, Illinois, this 24th day of August, 2020.



MICHAEL HOLLIDAY, MAYOR
NOKOMIS, ILLINOIS

ATTEST


RACHEL HILL, CITY CLERK
NOKOMIS, ILLINOIS

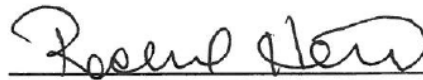
(SEAL)

CITY CLERK'S CERTIFICATE

STATE OF ILLINOIS)
COUNTY OF MONTGOMERY) **ss. CITY CLERK'S OFFICE**
CITY OF NOKOMIS)

I, Rachel Hill, City Clerk of the City of Nokomis, Illinois, do hereby certify that the following Ordinance of the City of Nokomis, Montgomery County, Illinois, published by authority of the City Council was duly passed by the City Council of the City of Nokomis, Illinois, approved by the Mayor, and published in pamphlet form according to law on this date, and that this ordinance is a true and perfect copy of the ordinance, as passed, approved, and now of record and on file in my office as provided by law.

In witness whereof, I have set my hand and affixed the Corporate Seal of the City of Nokomis, Illinois, this 24th day of August, 2020.



RACHEL HILL, CITY CLERK
NOKOMIS, ILLINOIS

(SEAL)

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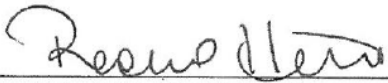
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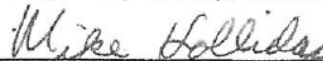
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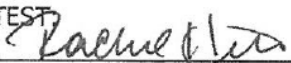
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RACHEL HILL, CITY CLERK
NOKOMIS, ILLINOIS

NAME	AYE	NAY	ABSTAIN	ABSENT	CONFLICT
Louis Stauder					
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Jonathan Nash					
Michael Holliday, Mayor					

Signed by the Mayor of the City of Nokomis, Montgomery County, Illinois, this 24th day of August, 2020.


MICHAEL HOLLIDAY, MAYOR
NOKOMIS, ILLINOIS

ATTEST

RACHEL HILL, CITY CLERK
NOKOMIS, ILLINOIS

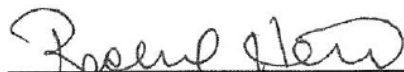
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COUNTY OF MONTGOMERY) **ss. CITY CLERK'S OFFICE**
CITY OF NOKOMIS)

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In witness whereof, I have set my hand and affixed the Corporate Seal of the City of Nokomis, Illinois, this 24th day of August, 2020.



RACHEL HILL, CITY CLERK
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