

ALL DISTRICTS

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

 X Resolution or Ordinance (Blue) X *Waiver of First Requested*
 Recommendations of Boards, Commissions & Committees (Green)
 Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott Niehaus, Village Manager

DATE: January 28, 2025 (COW)(B of T) February 20, 2025

TITLE: AN ORDINANCE AMENDING THE VILLAGE CODE TO IMPLEMENT A NON-HOME RULE MUNICIPAL RETAILERS' OCCUPATION TAX AND A NON-HOME RULE MUNICIPAL SERVICE OCCUPATION TAX PURSUANT TO PUBLIC ACT 103-0781 AND SUSPENDING THE COLLECTION OF SAID TAXES APPROVED BY REFERENDUM ON MARCH 21, 2006

SUBMITTED BY: Timothy Sexton, Director of Finance

BACKGROUND/POLICY IMPLICATIONS:

At the meeting on January 27, 2025, the Finance and Administration Committee discussed and unanimously voted to recommend that the Village Board approve the proposed change to suspend the current restricted 1% Non-Home Rule Sales Tax and adopt a new ordinance to implement a broader use 1% Non-Home Rule Sales Tax. This change does not increase the current sales tax rate.

The proposed recommendation includes allocating revenue from the NHR Sales Tax to the Building Fund for constructing new Public Safety Buildings and reducing future debt service payments. A memo on the proposed change as presented to the Committee and an FAQ regarding the proposed change are attached.

Approval of the attached Ordinance by the Village Board of Trustees is required in order to adopt the proposed change to the Non-Home Rule Sales Tax.

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X Sexton _____ Date 2/3/25
Village Manager X _____ Date _____

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



TO: Finance Committee
FROM: Timothy Sexton, Director of Finance
DATE: January 22, 2025
SUBJECT: Proposed Changes to Non-Home Rule Sales Tax

The purpose of this memo is to provide the Finance Committee with an overview of the proposed change to the Village's 1% Non-Home Rule Sales Tax and the potential implications for municipal finances and operations. This change presents an opportunity to enhance financial flexibility and allocate resources toward critical municipal needs.

Background

The Village of Lombard's current Non-Home Rule Sales Tax, approved by referendum effective January 1, 2007, is restricted for use on public infrastructure or property tax relief. Therefore, the revenue generated has been allocated to the Construction Fund for street improvements and the Water & Sewer Fund for stormwater projects. Under current legislation, these funds cannot be used for municipal buildings or day-to-day operations.

New Legislative Opportunity

Recent changes to state legislation, effective as part of the State Fiscal Year 2025 budget process, now allow non-home rule municipalities to implement a Non-Home Rule Sales Tax without the need for referendum approval. Key provisions include:

- The tax rate may not exceed 1% and must be imposed in 0.25% increments.
- The revenue is not restricted and can be allocated to municipal buildings, operations, public infrastructure, or property tax relief.
- Adoption of the tax requires the municipality to pass an ordinance, which must be submitted to the Illinois Department of Revenue (IDOR) by specific deadlines for collection to begin.

Proposed Changes

Staff recommends suspending the current restricted 1% Non-Home Rule Sales Tax and adopting a new ordinance to implement a broader use Non-Home Rule Sales Tax. This change would allow:

- Allocation of approximately \$10 million in revenue to the Building Fund for constructing new Public Safety Buildings, reducing projected debt service.

- Utilization of healthy balances in the Construction Fund and Motor Fuel Tax Fund to cover existing projects or delay non-critical projects without significant impact on infrastructure.

Rationale and Benefits

The proposed changes offer the following advantages:

- Increased flexibility in allocating sales tax revenue to high-priority municipal projects.
- Reduction in long-term debt obligations by funding Public Safety Buildings directly.
- Preservation of financial health in other dedicated funds for infrastructure maintenance.

Implementation Steps

1. Draft and adopt an ordinance implementing the new Non-Home Rule Sales Tax.
2. Submit the certified ordinance to the IDOR by the applicable deadline (April 1 for July 1 collections or October 1 for January 1 collections).
3. Communicate changes to residents and stakeholders, highlighting the benefits of enhanced financial flexibility and improved municipal services.

Conclusion

The proposed suspension and replacement of the current Non-Home Rule Sales Tax align with the Village's goals of fiscal responsibility and meeting community needs. Staff seeks the Finance Committee's support to proceed with this initiative and recommends advancing the ordinance to the Village Board for consideration.

DRAFT

FAQ: Proposed Changes to the Village of Lombard's Current 1% Non-Home Rule Sales Tax

1. What change is being proposed to the current 1% Non-Home Rule Sales Tax?

- At its meeting on January 27, 2025, the Finance and Administration Committee unanimously recommended that the Village Board approve suspending the current restricted 1% Non-Home Rule Sales Tax and adopt a new ordinance for a broader-use 1% Non-Home Rule Sales Tax.
 - The existing 1% tax, approved by referendum in 2006, is restricted to funding public infrastructure projects.
 - In 2024, the State of Illinois permitted non-home rule municipalities to impose this tax without a referendum and allocate the revenue for additional uses, including municipal buildings, daily operations, and infrastructure.

2. Will this change impact my local bill?

- **NO**, the proposed tax will maintain the current 1% tax rate but allow broader usage of the generated revenue.

3. What are the benefits of the proposed change?

- Increased financial flexibility to fund high-priority municipal projects.
- Direct funding of new Public Safety Buildings, reducing the need for long-term debt.
- Preservation of financial health in funds dedicated to infrastructure maintenance.

4. How will the revenue be allocated under the new ordinance?

- Approximately \$10 million will be directed to the Building Fund for constructing Public Safety Buildings.
 - The Village Board prioritized in its strategic plan that the Village have facilities adequate to meet operational needs. Part of this priority was to conduct a facility plan for public safety. The draft architectural report puts estimated costs at \$40-\$50 million for Police and Fire building needs.
 - The facility plan was conducted in 2023, and presented to the Public Safety Committee on 9/6/23, and they recommended approval to the Village Board.
 - The Village Board accepted the report at their meeting on 9/21/23.
- Existing healthy balances in the Construction and Motor Fuel Tax Funds will cover ongoing infrastructure projects or delay non-critical ones.

5. What steps are required to implement the changes?

- Draft and adopt the new tax ordinance.
 - Suspension of the current restricted 1% Non-Home Rule Sales Tax.
 - Adoption of a new ordinance to implement a broader-use Non-Home Rule Sales Tax, maintaining the same 1% rate.
 - Submit the certified ordinance to the Illinois Department of Revenue (IDOR) by April 1 for collections beginning July 1
 - Communicate changes and benefits to residents and stakeholders.

6. How does this align with the Village's goals?

- The proposed changes support the Village's long-term financial stability, reduces debt, and provides funding for infrastructure maintenance.
- According to the Village of Lombard's Strategic Plan, these changes align with key priorities:
 - Financial Sustainability – diversifying revenue sources.
 - Well-Maintained Infrastructure – providing funding for new Public Safety Buildings and other essential projects.
- The following are basic philosophical principles anticipated in terms of the funding sources identified for the new Public Safety Buildings.
 1. Property taxes should be used as a last resort.
 2. Nonresidents use Village services and should help fund the buildings.
 3. Maximize the amount of down payment to reduce annual debt service and interest.
 4. Determine whether new revenue streams are replacing eliminated or severely reduced revenue streams such as telecommunications taxes.
 5. Consider funding flexibility. Some funds are not flexible and must be used for specific purposes (HM tax, MFT, current NHR Sales Tax.
 6. Identify options that can be implemented by local ordinance without need for a referendum

7. What is a Non-Home Rule Municipality?

- Non-home rule municipalities are local governments that operate under state-granted powers, as opposed to home-rule municipalities, which have more autonomy.

8. What is the Non-Home Rule Sales Tax?

- Provides Non-Home Rule municipalities with additional revenue to fund essential services and projects, especially where other funding sources may be limited.
- Key Features of Non-Home Rule Sales Tax:
 - Authorization: Previously required approval through a public referendum. 2024 legislative changes allow implementation without a referendum.
 - Tax Rate: Can be imposed at rates up to 1%, in increments of 0.25%.
 - Usage of Revenue: Non-Home Rule Sales Tax does not apply to groceries, medical items or titled vehicles.

9. How much of the 1% Non-Home Rule Sales Tax is paid by residents vs. non-residents?

- The Village receives approximately \$10 million annually from the Non-Home Rule Sales Tax. According to a recent study done for the Village:
 - 40% (\$4 million) is paid by residents
 - 60% (\$6 million) is paid by non-residents

10. Will this proposed change increase my grocery bill?

- **NO**, taxation on groceries and medicine/prescriptions are not subject to this tax.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE VILLAGE CODE TO IMPLEMENT A NON-HOME RULE MUNICIPAL RETAILERS' OCCUPATION TAX AND A NON-HOME RULE MUNICIPAL SERVICE OCCUPATION TAX PURSUANT TO PUBLIC ACT 103-0781 AND SUSPENDING THE COLLECTION OF SAID TAXES APPROVED BY REFERENDUM ON MARCH 21, 2006

WHEREAS, the Illinois Municipal Code, 65 ILCS 5/1-2-1, provides that the corporate authorities of each municipality may pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities, with such fines or penalties as may be deemed proper; and,

WHEREAS, the Village of Lombard ("Village") is a non-home rule Illinois municipality pursuant to the Constitution of the State of Illinois of 1970, as amended; and

WHEREAS, Section 8-11-1.1 of the Illinois Municipal Code (65 ILCS 5/8-11-1.1) empowers non-home rule Illinois municipalities to impose certain Municipal Retailers' Occupation Taxes as outlined at Section 8-11-1.3 of the Illinois Municipal Code (65 ILCS 5/8-11-1.3) (the "Non-Home Rule Municipal Retailers' Occupation Tax"); and

WHEREAS, Section 8-11-1.1 of the Illinois Municipal Code (65 ILCS 5/8-11-1.1) empowers non-home rule Illinois municipalities to impose certain Municipal Service Occupation Taxes as outlined at Section 8-11-1.4 of the Illinois Municipal Code (65 ILCS 5/8-11-1.4) (the "Non-Home Rule Municipal Service Occupation Tax"); and

WHEREAS, Section 8-11-1.3 of the Illinois Municipal Code (65 ILCS 5/8-11-1.3) empowers a non-home rule municipality to "impose a tax upon all persons engaged in the business of selling tangible personal property, other than on an item of tangible personal property which is titled and registered by an agency of this State's Government, at retail in the municipality" based upon the "gross receipts from such sales made in the course of such business" for "expenditure on public infrastructure or for property tax relief or both" as defined in Section 8-11-1.2 (65 ILCS 5/8-11-1.2); and

WHEREAS, Section 8-11-1.4 of the Illinois Municipal Code (65 ILCS 5/8-11-1.4) empowers a non-home rule municipality to "impose a tax upon all persons engaged, in such municipality, in the business of making sales of service . . . of the selling price of all tangible personal property transferred by such servicemen either in the form of tangible personal property or in the form of real estate as an incident to a sale of service;" and

WHEREAS, Section 8-11-1.3 of the Illinois Municipal Code (65 ILCS 5/8-11-1.3) and Section 8-11-1.4 of the Illinois Municipal Code (65 ILCS 5/8-11-1.4) empower the Village to impose the Non-Home Rule Municipal Retailers' Occupation Tax and the Non-Home Rule Municipal Service Occupation Tax in 1/4% increments up to 1%; and

WHEREAS, Section 8-11-1.3 of the Illinois Municipal Code (65 ILCS 5/8-11-1.3) requires any municipality imposing a Non-Home Rule Municipal Retailers' Occupation Tax

under Section 8-11-1.3 of the Illinois Municipal Code (65 ILCS 5/8-11-1.3) to impose a Non-Home Rule Municipal Service Occupation Tax under Section 8-11-1.4 of the Illinois Municipal Code (65 ILCS 5/8-11-1.4) at “the same rate” as the rate imposed as the Non-Home Rule Municipal Retailers’ Occupation Tax being imposed; and

WHEREAS, any Non-Home Rule Municipal Retailers’ Occupation Tax imposed by the Village under Section 8-11-1.3 of the Illinois Municipal Code (65 ILCS 5/8-11-1.3) shall be administered, collected and enforced by the Illinois Department of Revenue; and

WHEREAS, any Non-Home Rule Municipal Service Occupation Tax imposed by the **City/Village/Town** under Section 8-11-1.4 of the Illinois Municipal Code (65 ILCS 5/8-11-1.4) shall be administered, collected and enforced by the Illinois Department of Revenue; and

WHEREAS, the electors of the Village approved a referendum on March 21, 2006, authorizing the Village to impose a Non-Home Rule Municipal Retailers’ Occupation Tax and a Non-Home Rule Municipal Service Occupation Tax at the rate of one percent (1%); and

WHEREAS, Public Act 103-0781, effective August 5, 2024, amended 65 ILCS 5/8-11-1.1 to eliminate the requirement that a Non-Home Rule Municipal Retailers’ Occupation Tax and a Non-Home Rule Municipal Service Occupation Tax may only be imposed by referendum, so that all Illinois non-home rule municipalities may impose a Non-Home Rule Municipal Retailers’ Occupation Tax and a Non-Home Rule Municipal Service Occupation Tax by ordinance or resolution without referendum approval; and

WHEREAS the President and Board of Trustees of the Village believe that it is appropriate, necessary, and in the best interests of the Village and its residents, that the Village suspend the collection of the Non-Home Rule Municipal Retailers’ Occupation Tax and the Non-Home Rule Municipal Service Occupation Tax approved by referendum on March 21, 2006, as set forth in Title IX, Chapter 98, Article III, Sections 98.115 and 98.116 of the Village Code, respectively;

WHEREAS, the President and Board of Trustees of the Village further believe that it is appropriate, necessary, and in the best interests of the Village and its residents, that the Village levy (1) a Non-Home Rule Municipal Retailers’ Occupation Tax, pursuant 65 ILCS 5/8-11-1.1, as amended by Public Act 103-0781, and 65 ILCS 5/8-11-1.3; and (2) a Non-Home Rule Municipal Service Occupation Tax, pursuant to 65 ILCS 5/8-11-1.1, as amended by Public Act 103-781, and 65 ILCS 5/8-11-1.4; and

NOW, THEREFORE, be it ordained, by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois as follows:

SECTION 1: The foregoing recitals shall be and are hereby incorporated as findings of fact as if said recitals were fully set forth herein.

SECTION 2: That Title IX, Chapter 98, Article III, Section 98.115, is hereby amended to insert a new subsection (D) to read in its entirety as follows:

“(D) *Suspension of Tax*. The tax imposed under this section shall be suspended as of July 1, 2025. Reinstatement of the tax shall require formal action by the corporate authorities of the Village through the adoption of an ordinance or resolution. During the suspension period, the authority to impose the tax under this section shall remain in effect.”

SECTION 3: That Title IX, Chapter 98, Article III, Section 98.116 is hereby amended to insert a new subsection (D) to read in its entirety as follows:

“(D) *Suspension of Tax*. The tax imposed under this section shall be suspended as of July 1, 2025. Reinstatement of the tax shall require formal action by the corporate authorities of the Village through the adoption of an ordinance or resolution. During the suspension period, the authority to impose the tax under this section shall remain in effect.”

SECTION 4: That Title IX, Chapter 98, Article III, is hereby amended by adding a new Section 98.115.1, to read in its entirety as follows:

“§ 98.115.1 – Non-home rule municipal retailers’ occupation tax under Public Act 103-0781

- (A) *Tax Imposed*. Pursuant to 65 ILCS 5/8-11-1.1, as amended by Public Act 103-0781, a tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than those items of tangible personal property which are exempt from said tax pursuant to 65 ILCS 5/8-11-1.3, at retail in this village at the rate of one percent of the gross receipts from such business while this section is in effect, in accordance with 65 ILCS 5/8-11-1.3.
- (B) *Collection of tax*. The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Illinois Department of Revenue in accordance with 65 Illinois Compiled Statutes 5/8-11-1.3.
- (C) *Use of taxes*. Pursuant to the referendum referenced in subsection (A) above the taxes collected pursuant to this section shall be used solely for public infrastructure as defined by 65 Illinois Compiled Statutes 5/8-11-1.2(a).”

SECTION 5: That Title IX, Chapter 98, Article III, is hereby amended by adding a new Section 98.116.1 to read in its entirety as follows:

“§ 98.116.1 – Non-home rule municipal service occupation tax under Public Act 103-781

- (A) *Tax Imposed*. Pursuant to 65 ILCS 5/8-11-1.1, as amended by Public Act 103-781, a tax is hereby imposed upon all persons engaged in the business of making sales of service, in this village at the rate of one percent of the selling price of all tangible personal property transferred by said servicemen, other than the sale/transfer of those items of tangible personal property which are exempt from said tax pursuant to 65 ILCS 5/8-11-1.4, either in the form of

tangible personal property or in the form of real estate as an incident to the sale of service while this section is in effect, in accordance with the provisions of 65 ILCS 5/8-11-1.4.

(B) *Collection of tax.* The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Illinois Department of Revenue in accordance with 65 Illinois Compiled Statutes 5/8-11-1.3.

(C) *Use of taxes.* Pursuant to the referendum referenced in subsection (A) above the taxes collected pursuant to this section shall be used solely for public infrastructure as defined by 65 Illinois Compiled Statutes 5/8-11-1.2(a).”

SECTION 6: Clerk to file Ordinance with Illinois Department of Revenue. As required under Section 8-11-1.3 of the Illinois Municipal Code (65 ILCS 5/8-11-1.3), the Clerk is hereby directed to file a certified copy of this Ordinance with the Illinois Department of Revenue on or before April 1, 2025.

SECTION 7: Effective Date. This Ordinance shall take effect on the first day of July next following the adoption and filing of this Ordinance with the Department of Revenue, if filed on or before the preceding April 1st; or, (ii) the first day of January next following the adoption and filing of this Ordinance with the Department of Revenue, if filed on or before the preceding October 1st.

SECTION 8: Repeal of Conflicting Provisions. All ordinances, resolutions and policies or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of the conflict, expressly repealed on the effective date of this Ordinance.

SECTION 9: Severability. If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

SECTION 10: Headings/Captions. The headings/captions identifying the various sections and subsections of this Ordinance are for reference only and do not define, modify, expand or limit any of the terms or provisions of the Ordinance.

SECTION 11: Publication. The Clerk is directed by the corporate authorities to publish this Ordinance in pamphlet form. This Ordinance shall be in full force and effect after its passage and publication in accordance with law.

PASSED THIS _____ day of _____, 2025.

AYES: _____

NAYS: _____

ABSTENTIONS: _____

ABSENT: _____

APPROVED THIS _____ day of _____, 2025.

Village President

ATTEST:

Village Clerk