

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one.)

of Port Leyden

FILED  
STATE RECORDS  
FEB 02 2023

DEPARTMENT OF STATE

Local Law No. 1 of the year 2023

A local law called the Village of Port Leyden Gross Receipts Tax Law  
(Insert Title)

Be it enacted by the Village Board of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one.)

of Port Leyden

as follows:

Section 1. – Title and Statement of Authority. This law shall be known as the "Village of Port Leyden Gross Receipts Tax Law." The Board of Trustees of the Village of Port Leyden, pursuant to the authority granted it under Section 5-530 of the Village Law of the State of New York, Section 186 of Tax Law of the State of New York and Sections 10 and 20 of the Municipal Home Rule Law of the State of New York, hereby enacts as follows:

Section 2. - Statement of Purpose and Findings. The Board of Trustees of the Village of Port Leyden hereby finds that State Law allows it to impose tax on certain utility usage within the Village. It is the purpose of this local law to adopt a tax on gross income of certain utilities to enhance revenues to support the health, welfare and safety of the residents of the Village of Port Leyden.

Section 3. - Enactment. The Board of Trustees of the Village of Port Leyden hereby enacts follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**Section 4. – Tax Established.** Pursuant to the authority granted by § 5-530 of the Village Law of the State of New York, a tax equal to 1% of its gross income from and after the first day of February 2023 is hereby imposed upon every utility doing business in the Village of Port Leyden, which business is subject to the supervision of the State Department of Public Services and which has an annual gross income in excess of \$500, except motor carriers or brokers subject to such supervision under Article 3-B of the Public Service Law, which taxes shall have application only within the territorial limits of the Village of Port Leyden and shall be in addition to any and all other taxes and fees imposed by any other provision of law. Such taxes shall not be imposed on any transaction originating or consummated outside of the territorial limits of the Village of Port Leyden, notwithstanding that some act be necessarily performed with respect to such transaction within such limits.

**Section 5. – Definitions.** As used in this article, the terms Gross Income, Gross Operating Income and Utility shall have the same meaning as set forth in Section 186-a, Subdivision 2, of the Tax Law.

**Section 6. – Required Records.** Every utility subject to tax under this article shall keep such records of its business and in such form as the Village Treasurer may require, and such records shall be preserved for a period of three years, except that the Village Treasurer may consent to their destruction within that period of may require that they be kept longer.

**Section 7. – Filing Requirements** Every utility subject to tax hereunder shall file annually, on or before the first day of March, a return for the 12 calendar months proceeding such return date or any portion thereof for which the tax imposed hereby is effective and, in the case of the first such return, for all preceding calendar months during which the tax imposed hereby was effective. Every return shall state the gross income or gross operating income for the period covered thereby. Returns shall be filed with the Village Treasurer on a form to be furnished by her for such purpose and shall contain such other data, information or matter as she may require to be included therein. The Village Treasurer, in order to ensure payment of the tax imposed, may require at any time a further or supplemental return which shall contain any data that may be specified by her, and she may require any utility doing business in the Village of Port Leyden to file an annual return which shall contain any data specified by her, regardless of whether the utility is subject to tax under this article. Every return shall have annexed thereto an affidavit of the head of the utility making the same, or of the owner of or a copartner thereof, or of a principal officer of the corporation, if such business is conducted by a corporation, to the effect that the statements contained therein are true.

**Section 8. – Payment.** At the time of filing a return, as required by this article, each utility shall pay to the Village Treasurer the tax imposed by this article for the period covered by such return. Such tax shall be due and payable at the time of filing the return or, if a return is not filed when due, on the last day on which the return is required to be filed.

**Section 9. – Insufficient or Unsatisfactory Returns.** In case any return filed pursuant to this article shall be insufficient or unsatisfactory to the Village Treasurer, and if a corrected or sufficient return is not filed within 20 days after the same is required by notice from her, or if no return is made for any period, the Village Treasurer shall determine the amount of tax due from such information as she is able to obtain and, if necessary, may estimate the tax on the basis of external indices or otherwise. She shall give notice of such determination to the person liable for such tax. Such determination shall finally and irrevocably fix such tax, unless the person against whom it is assessed shall, within 30 days after the giving of notice of such determination, apply to the Village Treasurer for a hearing, or unless the Village Treasurer, on her own motion shall reduce the same. After such hearing, the Village Treasurer shall give notice of her decision to the person liable for the tax. Such decision may be reviewed by a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York, if application therefor is made within 90 days after the giving of notice of such decision. An order to review such decision shall not be granted unless the amount of any tax sought to be reviewed, with interest and penalties thereon, if any, shall be first deposited with the Village Treasurer and an undertaking filed with him, in such amount and with such sureties as a Justice of the Supreme Court shall approve, to the effect that if such proceeding be dismissed or the tax confirmed, the applicant will pay all costs and charges which may accrue in the prosecution of such proceeding or, at the option of the applicant, such undertaking may be in a sum sufficient to cover the tax, interest, penalties, costs and charges aforesaid, in which event the applicant shall not be required to pay such tax, interest and penalties as a condition precedent to the granting of such order. Except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of filing of a return; provided, however, that where no return has been filed as required by this article the tax may be assessed at any time.

Section 10. – Notice. Any notice authorized or required under the provisions of this article may be given by mailing the same to the persons for whom it is intended, in a postpaid envelope, addressed to such person at the address given by him in the last return filed by him under this article or, if no return has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time, which is determined according to the provisions of this article by the giving of notice, shall commence to run from the date of mailing of such notice.

Section 11. – Penalties. Any person failing to file a return or corrected return, or to pay any tax or any portion thereof within the time required by this article shall be subject to a penalty of 5% of the amount of tax due, plus 1% of such tax for each month of delay or fraction thereof, except the first month, after such return was required to be filed or such tax became due; but the Village Treasurer, for cause shown, may extend the time for filing any return and, if satisfied that the delay was excusable, may remit all or any portion of the penalty fixed by the foregoing provisions of this section.

Section 12. – Refunds. If, within one year from the payment of any tax or penalty, the payer thereof shall make application for a refund thereof and the Village Treasurer or the court shall determine that such tax or penalty or any portion thereof was erroneously or illegally collected, the Village Treasurer shall refund the amount so determined. For like causes and within the same period, a refund may be so made on the initiative of the Village Treasurer. However, no refund shall be made of a tax or penalty paid pursuant to a determination of the Village Treasurer, as hereinbefore provided, unless the Village Treasurer, after a hearing as hereinbefore provided or of his own motion, shall have reduced the tax or penalty or it shall have been established in a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York that such determination was erroneous or illegal. All refunds shall be made out of moneys collected under this article. An application for a refund, made as hereinbefore provided, shall be deemed an application for the revision of any tax or penalty complained of and the Village Treasurer may receive additional evidence with respect thereto. After making this determination, the Village Treasurer shall give notice thereof to the person interested, and he shall be entitled to an order to review such determination under said Article 78, subject to the provision hereinbefore contained relating to the granting of such an order.

Section 13. – Tax to be Part of Operating Costs. The tax imposed by this article shall be charged against and be paid by the utility and shall not be added as a separate item to bills rendered by the utility to customers or others, but shall constitute a part of the operating costs of such utility.

Section 14. – Collection of Unpaid Taxes. Whenever any person shall fail to pay any tax or penalty imposed by this article, the Village Attorney shall, upon the request of the Village Treasurer, bring an action to enforce payment of the same. The proceeds of any judgment obtained in any such action shall be paid to the Village Treasurer. Each such tax and penalty shall be a lien upon the property of the person liable to pay the same in the same manner and to the same extent that the tax and penalty imposed by § 186 of the Tax Law is made a lien.

Section 15 – Administration. In the administration of this article, the Village Treasurer shall have the power to make such reasonable rules and regulations, not inconsistent with law, as may be necessary for the exercise of his powers and the performance of his duties; and to prescribe the form of blanks, reports and other records relating to the administration and enforcement of the tax: to take testimony and proofs, under oath, with reference to any matter within the line of his official duty under this article; and to subpoena and require the attendance of witnesses and the production of books, papers and documents.

Section 16. Confidentiality of Returns. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Village Treasurer or any agent, clerk or employee of the Village of Port Leyden to divulge or make known in any manner the amount of gross income or gross operating income or any particulars set forth or disclosed in any return under this article. The officer charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Village of Port Leyden in an action or proceeding under the provisions of this article, or on behalf of the State Tax Commission in an action or proceeding under the provisions of the Tax Law of the State of New York or on behalf of any party to any action or proceeding under the provisions of this article when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of said returns or of the facts shown thereby as are pertinent to the action or proceeding, and no more.

Nothing herein shall be construed to prohibit the delivery, to a person or his duly authorized representative, of a copy of any return filed by him, or to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof or the publication of delinquent lists showing the names of persons who have failed to pay their taxes at the time and in the manner provided for by this article, together with any relevant information which in the opinion of the Village Treasurer may assist in the collection of such delinquent taxes, or prohibit the inspection by the Village Attorney or other legal representatives of the Village of Port Leyden of the return of any person who shall bring action to set aside or review the tax based thereon, or against whom an action has been instituted in accordance with the provisions of this article. Notwithstanding any provisions of this article, the Village Treasurer may exchange with the chief fiscal officer of any city or any other Village in the State of New York information contained in returns filed under this article, provided that such information is to be used for tax purposes only; and the Village Treasurer shall, upon request, furnish the State Tax Commission with any information contained in such returns.

Section 17. Disposition of Moneys. All taxes and penalties received by the Village Treasurer under this article shall be paid into the treasury of the Village of Port Leyden and shall be credited to and deposited in the general funds of the Village of Port Leyden.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2023 of the (County)(City)(Town)(Village) of Port Leyden was duly passed by the Village Board on January 16 2023, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1\_\_\_\_ above.

*Danielle St. Louis*  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 1-17-2023

(Seal)