

Chapter 10- Occupation and Other Taxes

Article 1 – Municipal Retailers' Occupation Tax

- 1001 Tax on Selling Tangible Personal Property
- 1002 Filing with State Department of Revenue
- 1003 Payment to State Department of Revenue

Article 2 – Municipal Service Occupation Tax

- 1004 Tax on Selling Tangible Personal Property
- 1005 Filing with State Department of Revenue
- 1006 Payment to State Department of Revenue

Article 3 – Hotel or Motel Occupancy Tax

- 1007 Definitions
- 1008 Tax Imposed; Liability for Payment; Additional to Other Taxes; Collection
- 1009 Responsibility of Owner to Keep Daily Records; Right of Village to Inspect
- 1010 Transmittal of Tax Revenue
- 1011 Failure to Pay Tax
- 1012 Disposition of Proceeds from Tax and Fines
- 1013 Long Term Rentals Prohibited
- 1014 Penalty

Article 4 – Coin Operated Amusement Device Tax

- 1015 Definitions
- 1016 License Required; Limitations
- 1017 Application
- 1018 License Fees
- 1019 Issuance, Contents, Display, Replacement of License
- 1020 Assignment and Transfer
- 1021 Rules of Operation – Designated
- 1022 Regulations
- 1023 Violations

Article 5 – Entertainment Tax

- 1024 Definitions
- 1025 Tax Imposed
- 1026 Responsibility of Owner or Operator to Keep Daily Records; Right of Village to Inspect
- 1027 Transmittal of Tax Revenue
- 1028 Failure to Pay Tax
- 1029 Penalty

Article 6 – Bowling Alley Tax

- 1030 Definitions
- 1031 Tax Imposed
- 1032 Responsibility of Owner or Operator to Keep Daily Records; Right of Village to Inspect
- 1033 Transmittal of Tax Revenue
- 1034 Failure to Pay Tax
- 1035 Penalty

Article 7 – Utility Taxes

- 1036 Definitions
- 1037 Impositions
- 1038 Limitations
- 1039 Scope
- 1040 Tax Due
- 1041 Distribution of Funds
- 1042 Electricity Utility Tax

Article 8 – Simplified Municipal Telecommunications Tax

- 1043 Definitions
- 1044 Simplified Municipal Telecommunications Tax Imposed
- 1045 Collection of Tax by Retailers
- 1046 Returns to Department
- 1047 Resellers
- 1048 Severability
- 1049 Effective Date

Article 1 - Municipal Retailers' Occupation Tax

1001 Tax on Selling Tangible Personal Property

A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property at retail in this Village at the rate of one percent of the gross receipts from such sales made in the course of such business while this ordinance is in effect, in accordance with the provisions of *Section 8-11-1 of the Illinois Municipal Code*.

1002 Filing with State Department of Revenue

Every such person engaged in such business in the Village shall file on or before the last day of each calendar month, the report to the State Department of Revenue required by *Section Three of "An Act in Relation to a Tax upon Persons Engaged in the Business of Selling Tangible Personal Property to Purchasers for Use or Consumption"* approved June 28, 1933, as amended.

1003 Payment to State Department of Revenue

At the time such report is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed on account of the receipt from sales of tangible personal property during the preceding month.

Article 2 - Municipal Service Occupation Tax

1004 Tax on Selling Tangible Personal Property

A tax is hereby imposed upon all persons engaged in this municipality in the business of making sales of service at the rate of one percent of the cost of all tangible personal property or in the form of real estate as an incident to a sale of service, in accordance with the provisions of Section 8-11-5 of the Illinois Municipal Code.

1005 Filing with State Department of Revenue

Every supplier or serviceman required to account for Municipal Service Occupation Tax for the benefit of this municipality shall file, on or before the last day of each calendar month, the report to the State Department of Revenue required by Section Nine of the "Service Occupation Tax Act," approved July 10, 1961, as amended.

1006 Filing with State Department of Revenue

At the time such report is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed.

Article 3 - Hotel or Motel Occupancy Tax

1007 Definitions

For the purpose of this Article, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this Article:

Hotel Room or Motel Room. A room within a structure offered for rental on a daily basis and containing facilities for sleeping. One room offered for rental with or without an adjoining bath shall be considered as a single hotel or motel room. The number of hotel or motel rooms within a suite shall be computed on the basis of those rooms utilized for the purpose of sleeping.

Owner. Any person having an ownership interest in or conducting the operation of a hotel or motel room or receiving consideration for the rental of such hotel or motel room.

Person. Any natural person, trustee, court-appointed representative, syndicate, association, partnership, firm, club, company, corporation, business, trust, institution, agency, government corporation, municipal corporation, district or other political subdivision, contractor, supplier, vendor, vendee, operator, user or owner, or any officers, agents, employees or other representatives, acting either for himself or for any other person in any capacity, or any other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular or plural is included in any circumstances.

1008 Tax Imposed; Liability for Payment; Additional to Other Taxes; Collection

1008.1 There is hereby levied and imposed a tax of five percent (5%) of the rent charged for the privilege and use of renting a hotel or motel room within the Village for each twenty-four (24) hour period or any portion thereof for which a daily room charge is made, provided, however, that the tax shall not be levied and imposed upon any person who rents a hotel or motel room for more than thirty (30) consecutive days or to a person who works and lives in the same hotel or motel.

1008.2 The ultimate incidence of any liability for payment of said tax is to be borne by the person who seeks the privilege of occupying the hotel or motel room, said person hereinafter referred to as "rentor".

1008.3 The tax herein levied shall be paid in addition to any and all other taxes and charges. It shall be the duty of the owner of every hotel or motel to secure said tax from the rentor of the hotel or motel room and to pay over to the Village Treasurer said tax under procedures prescribed by the Village Treasurer, or as otherwise provided in this Article.

1008.4 Every person required to collect the tax levied by this Article shall secure said tax from the rentor at the time he collects the rental payment for the hotel or motel room. At the time of payment, the amount due under the tax provided in this Article shall be stated separately on the invoice, receipt or statement given to the rentor.

1009 Responsibility of Owner to Keep Daily Records; Right of Village to Inspect

1009.1 It shall be the duty of every owner to keep accurate and complete books and records to which the Village Treasurer, or his designee, shall at all times have full access, which records shall include a daily sheet showing:

A. The number of hotel or motel rooms rented during each twenty-four (24) hour period, including multiple rentals of the same hotel room where such shall occur; and

B. The actual hotel or motel tax receipts collected for the date in question.

1009.2 The Village Treasurer or his designee, may enter the premises of any hotel or motel for inspection and examination of books and records in order to effectuate the proper administration of this Article and to assure the enforcement of the collection of the tax imposed. It shall be unlawful for any person to prevent, hinder or interfere with the Village Treasurer or his designee in the discharge of his duties in the performance of this Article.

1010 Transmittal of Tax Revenue

1010.1 **Quarterly Tax Returns.** Every person operating a hotel or motel shall file tax returns showing tax receipts received with respect to each hotel or motel during each three month period ending on January 31, April 30, July 31 and October 31, of each year, within 30 days after the end of the respective date, upon forms prescribed by the Village. At the time of filing said tax returns, the operator of the hotel or motel shall pay to the Village all taxes due and owing for the quarter covered by the return.

1011 Failure to Pay Tax

1011.1 **Interest and Penalty.** In the event any hotel or motel owner, manager or operator fails to collect and pay to the village the tax required hereunder within 30 days after the same is due, interest shall accumulate and be due upon said tax at the rate of one percent (1%) per month commencing as of the first day of the month following the month for which the tax was to have been collected. In addition, a penalty of ten percent (10%) of the tax and interest due shall be assessed and collected against any hotel owner, manager and operator.

1011.2 **Action to Enforce Payment.** In addition to any other enforcement provisions, the Village may bring an action to require payment of the tax and filing of the return required by this Article. Any legal fees and costs incurred by the Village in the cost of collection shall be paid by the operator or person who has failed to pay the tax.

1012 Disposition of Proceeds from Tax and Fines

The amount collected pursuant to this Article shall be appropriated for and directed for promotion of tourism and conventions to the Village or to otherwise attract nonresident overnight visitors to the Village.

1013 Long Term Rentals Prohibited

It shall be unlawful for any owner or operator of a hotel or motel to rent a hotel room or rooms to any person for more than thirty (30) consecutive days. It shall be unlawful for any rentor to continually stay or rent a hotel or motel room at the same hotel or motel for more than thirty (30) consecutive days.

1014 Penalty

Any person found guilty or pleads guilty to violating any provision of this Article shall be fined not less than \$100.00 nor more than \$1,000.00 for each offense and be responsible for the Village's cost of prosecution, including reasonable attorney fees. Each day that a violation continues shall be considered a separate offense.

ARTICLE 4 – COIN OPERATED AMUSEMENT DEVICE TAX

1015 Definitions

For the purpose of this Article, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this Article:

Coin Operated Amusement Device. Any machine which, upon the insertion of a coin, currency, token, slug, debit card, credit card, or other electronic method of payment or upon the payment of any fee, operates or may be operated by the public generally as a game or contest of skill or amusement of any kind or description and which does not provide for any tangible payoff, reward or return of token or fee to the player. The term shall mean and include any pinball, video or computer game, ball table or marble machine or any other similar type of game, machine or table in which any ball, sphere, missile, arm, vehicle, crane, rod or plunger is struck, released, controlled or manipulated for the purpose of amusement or skill or any electrical machine or game controlled or manipulated for the purpose of amusement or skill and in which a test of skill is involved. The term also means and includes any machine vending recorded music or a period of radio or television entertainment in return for the insertion or deposit therein of a coin, currency, token or slug, debit card, credit card, or other electronic method of payment; provided, however, that this does not include coin operated radios or televisions within private quarters. The term also means and includes any billiard, pool table or bumper pool table, the operation of which is dependent upon the use of a coin to obtain balls. The term shall include any such game which is played with the use of a table, cue sticks and pool balls or billiard balls likewise dependent upon the use of any coin for payment, by automatic means.

Person. Any person, firm, limited liability company, partnership or other business entity or association which owns or organizes any coin-operated amusement device, the person, firm, corporation, limited liability company, partnership or other business entity or association in whose place of business any such device is placed for use by the public, and the person, firm, corporation, limited liability company, partnership or other business entity or association having control over such device.

Public Place: Any business, entity or other place open to the public generally, or to a group of selected members or patrons, wherein a coin operated amusement device is maintained for the purpose of being operated by and for the enjoyment or benefit of the patrons, members or other persons who may be upon the premises.

1016 License Required; Limitations

It shall be unlawful for any person to use and operate or keep for use and operation, any coin-operated amusement device in any public place within the Village unless a license therefor shall have first been obtained, as hereinafter provided. No license shall be required for a coin-operated amusement device located in a residence for personal use of the residents and their guests.

1017 Application

- 1017.1 Application for licenses required herein shall be made in writing to the Village and shall include the following information:
- A. The name and address of the applicant, and if a firm, corporation, limited liability company, club or partnership, the names of all principal officers, managers, and members thereof, and their addresses.
 - B. A statement that applicant or any person required to provide information as stated in Section 1017.1.A has not been convicted of a felony or disqualified to receive a license for any reason by the laws of this State or the ordinances of this Village.
 - C. Place where the coin-operated amusement device is to be displayed or operated, and the business conducted at that place.
 - D. A schedule of the hours during which such place is open for use by the members, patrons or public.
- 1017.2 It shall be unlawful for any person to sign or present any application for a license required by this Article knowing it to contain any false statement.

1018 License Fees

- 1018.1 **Annual Fee.** The annual fee for the license required under this Article shall be \$50.00 per coin-operated amusement device.
- 1018.2 **Issuance of License.**
- A. Licenses issued pursuant to this Article shall be valid from the date issued to the following January 1. License renewal shall be made before January 1 of each year, and shall be valid until the following January 1.
 - B. If a new application for a coin-operated amusement device is made during the last six (6) months of any license year, the license fee shall be one-half (1/2) of the entire fee.

1018.3 **Temporary License.** A license may be issued to an applicant which allows the use of coin-operated amusement devices pursuant to this Article for a period of time not to exceed five (5) days per year. In addition to completing an application for a temporary license, the licensee shall be responsible for notifying the Village in writing at least fourteen (14) days in advance prior to any date on which the devices will be made available for use and operation as defined by this Article. The fee for a temporary license shall be \$5.00 per coin-operated amusement device.

1019 Issuance, Contents, Display, Replacement of License

1019.1 Upon approval by the Village President, or his representative, of the application and receipt by the Village Clerk of the required fee, the Clerk shall issue to the applicant a license certificate or emblem, capable of being securely and permanently fixed upon a plastic, wooden or metallic surface, which emblem shall bear the name of the Village, license number, year for which issued and date of expiration.

1019.2 Such license shall be affixed to the licensed coin-operated amusement device and displayed in a conspicuous place.

1019.3 In the event such certificate or emblem shall be lost or destroyed, the Village Clerk shall, upon application and payment of a fee of five dollars (\$5.00), issue a replacement certificate or emblem expressly marked as such.

1020 Assignment and Transfer

1020.1 The license certificate issued pursuant to this Article shall be valid only for the person and premises named in the application therefor, and shall not be assignable to any other person or premises.

1020.2 Written application for transfer or assignment, based upon a reasonable transfer of ownership or location, must be made to and approved by the Village President or such license shall be deemed invalid. However, no such application or approval is necessary to replace or remove a device which is no longer operating.

1021 Rules of Operation - Designated

In addition to any other condition or regulation contained in this Article or in the statutes of the state, the following conditions and regulations shall be applicable to and shall govern and control the business of keeping or providing five or more coin-operated amusement devices for public use within the Village.

- 1021.1 The walls, ceiling or floor, or any combination thereof, of the building or structure, or portion thereof, containing such devices shall be insulated or otherwise constructed so that no noise or vibration is detectable without the aid of any mechanical device or instrument will be allowed beyond the outer perimeter or the licensed premises.
- 1021.2 No coin-operated amusement devices shall be used for purposes of or in connection with the wagering of money, goods or merchandise upon the outcome of the use or manipulation of such device or otherwise used for purposes of gambling as defined in Section 5/28-1 et seq, of Chapter 720 of the Illinois Compiled Statutes.
- A. For purposes of this Article, a gambling device does not include a redemption machine. A redemption machine is a single-player or multiplayer amusement device involving a game, the object of which is throwing, rolling, bowling, shooting, placing, or propelling a ball or other object into, upon, or against a hole or other target, provided that all of the following conditions are met:
1. The outcome of the game is predominately determined by the skill of the player;
 2. The award of the prize is based solely upon the player's achieving the object of the game or otherwise upon the player's score;
 3. Only merchandise prizes are awarded;
 4. The average wholesale value of prized awarded in lieu of tickets or tokens for single play of the device does not exceed the lesser of five dollars (\$5.00) or seven times the cost charged for a single play of the device;
 5. The redemption value of tickets, tokens and other representations of value, which may be accumulated by players to redeem prizes of greater value, does not exceed the amount charged for a single play of the device.
- 1021.3 No person of elementary, junior high school or high school age shall be allowed on the licensed premises during the hours when school is in session unless he or she is present in connection with a school-sponsored program.
- 1021.4 At all times during the hours of operation of the licensed premises where there is a video poker machine there shall be present a manager or other employee of the licensee, at least one of whom shall not be less than twenty-one (21) years of age, to provide adequate control and supervision of the licensed premises and the use of coin-operated amusement devices present therein.

- 1021.5 All premises where coin-operated amusement devices are to be licensed shall be inspected by the Village's Code Official prior to the issuance of a license. No license shall be issued until written certification has been supplied by the Village that all electrical outlets and equipment serving the premises meet the current Village Building Code.
- 1021.6 All premises where coin-operated amusement devices are to be licensed shall be adequately lighted at all times during the operation by natural light or artificial light.
- 1021.7 The Chief of Police shall cause to be filed with the office of the Village President a copy of all reports detailing any and all police contact with a license holder.
- 1021.8 No person shall be permitted to enter or stay upon the licensed premises if such person is shirtless or barefooted.
- 1021.9 In premises in which the sale of alcoholic liquor for consumption on the premises is licensed, other than in restaurants, hotels, or any bowling alley other than one situated on the first or ground floor, or clubs, no screen, blind, curtain, partition, article or thing shall be permitted in the windows or upon the doors of such licensed premises nor inside such premises, which shall prevent a clear view into the interior of such licensed premises from the street, road or sidewalk at all times, and no booth, screen, partition or other obstruction nor any arrangement of lights or lighting shall be permitted in or about the interior of such premises which shall prevent a full view of the entire interior of such premises, and the entire space used by the public must be so located that there shall be a full view of the same from the street, road or sidewalk. All rooms where alcoholic liquor is sold for consumption on the premises shall be continually lighted during business hours by natural or artificial white lights so that all parts of the interior of the premises shall be clearly visible. In case the view into any such licensed premises required by the foregoing provisions shall be willfully obscured by the licensee or by him or her willfully suffered to be obscured or obstructed, such license may be revoked in the manner herein provided. In order to enforce the provisions of this section, the local liquor control commissioner shall have the right to require the filing with him or her of plans, drawings, and photographs showing the clearance of the view as above required.
- 1021.10 Loitering on the licensed premises shall not be permitted and is prohibited.
- 1021.11 No premises shall be licensed to have a coin-operated amusement device if such premises are located five hundred (500) feet or less from the nearest public or parochial school, elementary school or high school. The distance shall be measured from the front door of the licensed premises to the closest property line of the school. However, this section shall not be applicable to any premises where coin operated amusement devices have been in operation as of the date of the adoption of this ordinance.

- 1021.12 Gambling and gambling devices shall be and are prohibited on the licensed premises.
- 1021.13 The insertion of slugs, plates or discs in lieu of United States coinage into the coin-operated amusement device or redemption machine be and the same is prohibited.

1022 Regulations

No coin-operated amusement device shall be operated or kept for operation in any public place. Where a valid license is not in full force and effect or at any time when, because of the condition of the premises or of the coin-operated amusement device, the operation of such device would constitute a nuisance or a fire hazard, or would in any other way endanger the safety of patrons, members of the club or other persons who may be legally upon such premises.

1023 Violation

Any person found guilty of violating any part of this Article shall pay a fine of not less than \$50.00 nor more than \$500.00 for each coin-operated amusement device. Each day that a violation occurs shall constitute a separate offense.

Article 5 – Entertainment Tax

1024 Definitions

(Revised Ord. No. 2009-22)

Entertainment or Entertainment Event. Any theatrical, dramatic, musical or spectacular performance or show; motion picture theater; flower, poultry or animal show; agritourism events, circus, rodeo, athletic contest, sport, game or similar exhibition open and available for public entertainment, including without being limited to, skating, dancing, swimming, riding on animals or vehicles, baseball, basketball, softball, football, tennis, golf, hockey, track and field games, and any other exhibition, performance or entertainment open to the public and shown, exhibited or staged in the Village, except if exhibited, performed, played or staged by a school, church, registered charitable organization, not for profit entity, unit of local government, tax exempt organization, or if such entertainment event is exhibited, performed, played or staged as or for a fundraising event, the primary purpose of which is to benefit a charity or a charitable purpose, such as to raise money for a youth or school activity or to defray medical expenses of a resident.

Entertainment Entity. Any premises where an entertainment event occurs.

1025 Tax Imposed

(Revised Ord. No. 2009-22)

From and after January 1, 2010, the Village shall impose a four percent (4%) tax on the revenue for admissions imposed on patrons of any entertainment entity and collected by the owner, operator or licensee of any entertainment entity for the privilege to enter, to witness, to view or to participate in such entertainment., except for agritourism events for which the Village shall impose a two percent (2%) tax on the revenue of admissions imposed on patrons of any entertainment entity providing agritourism events and collected by the owner, operator or licensee of the said entity for the privilege to enter, to witness, to view or to participate in the agritourism event. However, for entertainment events at Horse Fair Park, no such tax shall be imposed and fees and costs shall be as otherwise provided in this Village Code.

1026 Responsibility of Owner or Operator to Keep Daily Records; Right of Village to Inspect

1026.1 It shall be the duty of every owner and operator of each entertainment entity, or any person or entity which exhibits, performs, plays or stages an event at an entertainment entity, to keep accurate and complete books and records to which the Village Treasurer, or his designee, shall at all times have full access.

1026.2 The Village Treasurer or his or her designee, may enter the premises of any entertainment entity for inspection and examination of books and records in order to effectuate the proper administration of this Article and to assure the enforcement of the collection of the tax imposed. It shall be unlawful for any person to prevent, hinder or interfere with the Village Treasurer or his or her designee in the discharge of his or her duties in the performance of this Article.

1027 Transmittal of Tax Revenue

1027.1 **Quarterly Tax Returns.** Every person owning or operating an entertainment entity, or any person or entity which exhibits, performs, plays or stages an event at an entertainment entity, shall file tax returns showing all receipts from the entertainment entity during each three month period ending on January 31, April 30, July 31 and October 31, of each year, within 30 days after the end of the respective date, upon forms prescribed by the Village. At the time of filing said tax returns, the owner or operator of the entertainment entity, or any person or entity which exhibits, performs, plays or stages an event at an entertainment entity, shall pay to the Village all taxes due and owing for the quarter covered by the return.

1028 Failure to Pay Tax

1028.1 **Interest and Penalty.** In the event any entertainment entity owner or operator, or any person or entity which exhibits, performs, plays or stages an event at an entertainment entity, fails to collect and pay to the village the tax required hereunder within 30 days after the same is due, interest shall accumulate and be due upon said tax at the rate of one percent (1%) per month commencing as of the first day of the month following the month for which the tax was to have been collected. In addition, a penalty of ten percent (10%) of the tax and interest due shall be assessed and collected against any owner or operator.

1028.2 **Action to Enforce Payment.** In addition to any other enforcement provisions, the Village may bring an action to require payment of the tax and filing of the return required by this Article. Any costs incurred by the Village in the cost of collection shall be paid by the operator or person who has failed to pay the tax.

1029 Penalty

Any person found guilty or who pleads guilty to violating any provision of this Article shall be fined not less than \$100.00 nor more than \$1,000.00 for each offense and shall be responsible for payment of the tax plus interest and penalties. Each day that a violation continues shall be considered a separate offense.

Article 6 – Bowling Alley Tax

1030 Definitions

Bowling. A game played by rolling a ball down a wooden alley in order to knock down a triangular group of ten pins. Also called "tenpins", or a similar game, such as duckpins or ninepins.

Bowling Alley. A commercial building or room containing lanes for bowling.

1031 Tax Imposed

A tax of four percent (4%) is hereby imposed on the gross receipts for each game of bowling by patrons at a bowling alley.

1032 Responsibility of Owner or Operator to Keep Daily Records; Right of Village to Inspect

1032.1 It shall be the duty of every owner and operator of a bowling alley to keep accurate and complete books and records to which the Village Treasurer, or his or her designee, shall at all times have full access.

1032.2 The Village Treasurer or his or her designee, may enter the premises of any bowling alley for inspection and examination of books and records in order to effectuate the proper administration of this Article and to assure the enforcement of the collection of the tax imposed. It shall be unlawful for any person to prevent, hinder or interfere with the Village Treasurer or his or her designee in the discharge of his or her duties in the performance of this Article.

1033 Transmittal of Tax Revenue

1033.1 **Quarterly Tax Returns.** Every person owning or operating a bowling alley shall file tax returns showing all receipts from games of bowling during each three month period ending on January 31, April 30, July 31 and October 31, of each year, within 30 days after the end of the respective quarter, upon forms prescribed by the Village. At the time of filing said tax returns, the owner or operator of the bowling alley shall pay to the Village all taxes due and owing for the quarter covered by the return.

1034 Failure to Pay Tax

1034.1 **Interest and Penalty.** In the event any owner or operator of a bowling alley fails to collect and pay to the village the tax required hereunder within 30 days after the same is due, interest shall accumulate and be due upon said tax at the rate of one percent (1%) per month commencing as of the first day of the month following the month for which the tax was to have been collected. In addition, a penalty of ten percent (10%) of the tax and interest due shall be assessed and collected against any owner or operator.

1034.2 **Action to Enforce Payment.** In addition to any other enforcement provisions, the Village may bring an action to require payment of the tax and filing of the return required by this Article. Any costs incurred by the Village in the cost of collection shall be paid by the operator or person who has failed to pay the tax.

1035 Penalty

Any person found guilty or who pleads guilty to violating any provision of this Article shall be fined not less than \$100.00 nor more than \$1,000.00 for each offense and shall be responsible for payment of the tax plus interest and penalties. Each day that a violation continues shall be considered a separate offense.

Article 7 Utility Taxes

(Revised Ord. No. 2009-39)

1036 Definitions

As used in this section, unless the context otherwise requires:

Gross Receipts. The consideration received for the transmission of messages, the consideration received for distributing, supplying, furnishing or selling gas or electricity for use or consumption and not for resale, as the case may be, and for all services rendered in connection therewith valued in money, whether received in money or otherwise, including cash, credit, services and property of every kind and material and for all services rendered therewith; and shall be determined without any deduction on account of the cost of transmitting said messages, without any deduction on account of the cost of the service, product or commodity supplied, the cost of materials used, labor or service cost, and without any other expense whatsoever. The term "gross receipts" shall not include that portion of the consideration received for distributing, supplying, furnishing, or selling gas, electricity, or water to, or for the transmission of messages for school districts or units of local government. (If any utility service listed in the previous sentence is not taxed, reference to such utility service should be omitted.)

Person. Any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, municipal corporation, the state or any of its political subdivisions, any state university created by statute, or a receiver, trustee, conservator or other representative appointed by order of any court.

Person Maintaining a Place of Business in this State. Any person having or maintaining within this state, directly or by a subsidiary or other affiliate, an office, generation facility, distribution facility, transmission facility, sales office or other place of business, or any employee, agent or other representative operating within this state under the authority of the persons or its subsidiary or other affiliate, irrespective of whether such place of business or agent or other representative is located in this state permanently or temporarily, or whether such persons, subsidiary or other affiliate is licensed or qualified to do business in this state.

Purchase at Retail. Any acquisition of electricity by a purchaser for purposes of use or consumption, and not for resale, but shall not include the use of electricity by a public utility, as defined in 65 ILCS 5/8-11-2 as may be amended from time to time, directly in the generation, production, transmission, delivery or sale of electricity.

Purchaser. Any person who uses or consumes, within the corporate limits of the Village, electricity acquired in a purchase at retail.

Tax Collector. The person delivering electricity to the purchaser.

Transmitting Messages. In addition to the usual and popular meaning of person-to-person communication, shall include the furnishing, for a consideration, of services or facilities (whether owned or leased), or both, to persons in connection with the transmission of messages where such persons do not in turn, receive any consideration in connection therewith, but shall not include such furnishing of services or facilities to persons for the transmission of messages to the extent that any such services or facilities for the transmission of messages are furnished for a consideration, by such persons to other persons, for the transmission of messages.

Village. The Village of Spring Grove.

1037 Imposition

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

- A. Persons engaged in the business of transmitting messages by means of electricity, at the rate of five percent (5%) of the gross receipts from such business originating within the corporate limits of Spring Grove.
- B. Persons engaged in the business of distributing, supplying, furnishing or selling gas for use or consumption within the corporate limits of Spring Grove, and not for resale, at the rate of five percent (5%) of the gross receipts therefrom.
- C. Persons engaged in the business of distributing, supplying, furnishing or selling electricity for use or consumption within the corporate limits of Spring Grove, and not for resale, at the rate of four percent (4%) of the gross receipts therefrom.
- D. The tax imposed under this section shall not apply with respect to gross receipts pertaining to bills for the distribution, supply, furnishing or sale of electricity where the use or consumption of the electricity is subject to the tax imposed Section 1042.
- E. If a taxpayer under this section is unable to use a credit authorized by Section 1040.3 solely because the tax imposed by this section has been replaced by the tax imposed under the electric utility tax, then the taxpayer may apply such credit against any tax due under the electric utility tax.

1038 Limitation

No tax is imposed by this section with respect to any interstate commerce or otherwise to the extent to which such business may not, under the Constitution and statutes of the United States, be made subject to taxation by this state or any political subdivision thereof, nor is it intended that any persons engaged in the business of distributing, supplying, furnishing or selling gas or electricity, or engaged in the business of transmitting messages, be subject to taxation under the provisions of this section for such transactions as are or may become subject to taxation under the provisions of the "Municipal Retailers' Occupation Tax Act" authorized by 65 ILCS 5/8-11-1, as may be amended from time to time.

1039 Scope

Such tax shall be in addition to the payment of money or value of products or services furnished to this municipality by the taxpayer as compensation for the use of its streets, alleys or other public places, or installation and maintenance therein, thereon or thereunder of poles, wires, pipes or other equipment used in the operation of the taxpayer's business.

1040 Tax Due

1040.1 Upon and after notification of the adoption of this Ordinance, each such taxpayer shall make a return to the Village Treasurer, stating:

- A. His name;
- B. His principal place of business;
- C. His gross receipts 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.

1040.2 On or before the last day after every month thereafter, each taxpayer shall make a like return to the Village Treasurer for the corresponding one-month period. The taxpayer making the return herein provided for shall, at the time of making such return, pay to the Village Treasurer 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.

1040.3 If it shall appear that an amount of tax has been paid which was not due under the provisions of this section, 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 section from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than three years prior to the filing of a claim therefore shall be so credited.

1040.4 No action to recover any amounts of tax due under the provisions of this section shall be commenced more than three years after the due date of such amount.

1041 Distribution of Funds

The proceeds of this tax shall be used for all lawful purposes of the Village.

1042 Electric Utility Tax

1042.1 Tax imposed

A. Pursuant to 65 ILCS 5/8-11-2, as may be amended from time to time, and any and all other applicable authority, a tax is imposed upon the privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the Village at the following rates, calculated on a monthly basis for each purchaser:

1. For the first 2,000 kilowatt-hours used or consumed in a month: 0.61 cents per kilowatt-hour;
2. For the next 48,000 kilowatt-hours used or consumed in a month: 0.40 cents per kilowatt-hour;
3. For the next 50,000 kilowatt-hours used or consumed in a month: 0.36 cents per kilowatt-hour;
4. For the next 400,000 kilowatt-hours used or consumed in a month: 0.35 cents per kilowatt-hour;
5. For the next 500,000 kilowatt-hours used or consumed in a month: 0.34 cents per kilowatt-hour;
6. For the next 2,000,000 kilowatt-hours used or consumed in a month: 0.32 cents per kilowatt-hour;
7. For the next 2,000,000 kilowatt-hours used or consumed in a month: 0.315 cents per kilowatt-hour;
8. For the next 5,000,000 kilowatt-hours used or consumed in a month: 0.31 cents per kilowatt-hour;
9. For the next 10,000,000 kilowatt-hours used or consumed in a month: 0.305 cents per kilowatt-hour; and
10. For all electricity used or consumed in excess of 20,000,000 kilowatt-hours in a month: 0.30 cents per kilowatt-hour.

- B. The tax is in addition to all taxes, fees and other revenue measures imposed by the Village, the state or any other political subdivisions of the state.
- C. Notwithstanding any other provision of this section, the tax shall not be imposed if and to the extent that imposition or collection of the tax would violate the Constitution or statutes of the United States or the constitution of the State of Illinois.
- D. The tax shall be imposed with respect to the use or consumption of electricity by residential and non-residential customers beginning with the first bill issued on or after receipt by a public utility or the first bill issued to such customers on or after February 1, 2010, whichever issuance occurs sooner.

1042.2 Collection of Tax

- A. Subject to the provisions of Section 1042 regarding the delivery of electricity to resellers, the tax imposed under Section 1042 shall be collected from purchasers by the person maintaining a place of business in this state who delivers electricity to such purchasers. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and is recoverable at the same time and in the same manner as the original charge for delivering the electricity.
- B. Any tax required to be collected by Section 1042, and any tax in fact collected, shall constitute a debt owed to the Village by the person delivering the electricity, provided, that the person delivering electricity shall be allowed credit for such tax related to deliveries of electricity the charges for which are written off as uncollectible, and provided further, that if such charges are thereafter collected, the delivering supplier shall be obligated to remit such tax.
- C. 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 they collect to reimburse them for their expenses incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the Village upon request. For purposes of Section 1042, any partial payment of a billed amount not specifically identified by the purchaser shall be deemed to be for the delivery of electricity.

1042.3 Tax Remittance and Return

- A. Every tax collector shall on a monthly basis file a return in a form prescribed by the Village. The return and accompanying remittance shall be due on or before the last day of the month following the month during which the tax is collected or is required to be collected under Section 1042.
- B. If the person delivering electricity fails to collect the tax from the purchaser or is excused from collecting the tax under Section 1042, then the purchaser shall file a return in a form prescribed by the Village Treasurer and pay the tax directly to the Village on or before the last day of the month following the month during which the electricity is used or consumed.

1042.4 Resales

- A. Electricity that is delivered to a person in this Village shall be considered to be for use and consumption by that person unless the person receiving the electricity has an active resale number issued by the Village Treasurer and furnishes that number to the person who delivers the electricity, and certifies to that person that the sale is either entirely or partially nontaxable as a sale for resale.
- B. If a person who receives electricity in the Village claims to be an authorized reseller of electricity, that person shall apply to the Village Treasurer for a resale number. The applicant shall state facts showing why it is not liable for the tax imposed by Section 1042 on any purchases of electricity and shall furnish such additional information as the Village Treasurer may reasonably require.
- C. Upon approval of the application, the Village Treasurer shall assign a resale number to the applicant and shall certify the number to the applicant.
- D. The Village Treasurer may cancel the resale number of any person if the person fails to pay any tax payable under Section 1042 for electricity used or consumed by the person, or if the number: 1) was obtained through misrepresentation; or 2) is no longer necessary because the person has discontinued making resales.
- E. (1) If a reseller has acquired electricity partly for use or consumption and partly for resale, the reseller shall pay the tax imposed by Section 1042 directly to the Village Treasurer on the amount of electricity that the reseller uses or consumes, and shall collect the tax pursuant to Section 1042 and remit the tax on the amount of electricity delivered by the reseller to a purchaser.

(2) Any person who delivers electricity to a reseller having an active resale number and complying with all other conditions of Section 1042 shall be excused from collecting and remitting the tax on any portion of the electricity delivered to the reseller, provided that the person reports to the Village Treasurer the total amount of electricity delivered to the reseller, and such other information the Village Treasurer may reasonably require.

1042.5 **Books and Records.** Every tax collector, and every taxpayer required to pay the tax imposed by Section 1042, shall keep accurate books and records of its business or activity, including contemporaneous books and records denoting the transactions that gave rise, or may have given rise, to any tax liability under Section 1042. The books and records shall be subject to and available for inspection at all times during business hours of the day.

1042.6 **Credits and Refunds.** Notwithstanding any other provision of Section 1042, in order to permit sound fiscal planning and budgeting by the Village, no person shall be entitled to a refund of, or credit for, a tax imposed under Section 1042 unless the person files a claim for refund or credit within one year after the date on which the tax was paid or remitted to the Village Treasurer.

1042.7 **Unconstitutionality.** If any section, subsection, sentence, clause, phrase or portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining provisions hereof.

Article 8 - Simplified Municipal Telecommunications Tax

(Revised Ord. No. 2009-39)

1043 Definitions

As used in this Article the following terms shall have the following meanings:

Amount Paid. The amount charged to the taxpayer's service address in this municipality regardless of where such amount is billed or paid.

Department. The Illinois Department of Revenue.

Gross Charge. The amount paid for the act or privilege of originating or receiving telecommunications in this municipality and for all services and equipment provided in connection therewith by a retailer, valued in money whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. "Gross charges" for private line service shall include charges imposed at each channel termination point within this municipality and charges for the portion of the inter-office channels provided within this municipality. Charges for that portion of the inter-office channel connecting two (2) or more channel termination points, one or more of which is located within the jurisdictional boundary of this municipality, shall be determined by the retailer by multiplying an amount equal to the total charge for the inter-office channel by a fraction, the numerator of which is the number of channel termination points that are located within the jurisdictional boundary of the municipality and the denominator of which is the total number of channel termination points connected by the inter-office channel. However, "gross charge" shall not include any of the following:

- A. Any amounts added to a purchaser's bill because of a charge made pursuant to: (i) the tax imposed by this Ordinance, (ii) the tax imposed by the Telecommunications Excise Tax Act, (iii) the tax imposed by Section 4251 of the Internal Revenue Code, (iv) 911 surcharges, or (v) charges added to customers' bills pursuant to the provisions of Section 9-221 or 9-222 of the Public Utilities Act, as amended, or any similar charges added to customers' bills by retailers who are not subject to rate regulation by the Illinois Commerce Commission for the purpose of recovering any of the tax liabilities or other amounts specified in those provisions of the Public Utilities Act;
- B. Charges for a sent collect telecommunication received outside of such municipality;

- C. Charges for leased time on equipment or charges for the storage of data or information for subsequent retrieval or the processing of data or information intended to change its form or content. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment or accounting equipment and also includes the usage of computers under a time-sharing agreement;
- D. Charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges;
- E. Charges to business enterprises certified as exempt under Section 9-222.1 of the Public Utilities Act to the extent of such exemption and during the period of time specified by the Department of Commerce and Economic Opportunity;
- F. Charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries when the tax imposed under this Ordinance has already been paid to a retailer and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit for the corporation rendering such service;
- G. Bad debts ("bad debt" means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable federal income tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made);
- H. Charges paid by inserting coins in coin-operated telecommunication devices; or
- I. Amounts paid by telecommunications retailers under the Telecommunications Infrastructure Maintenance Fee Act.
- J. Charges for nontaxable services or telecommunications if (i) those charges are aggregated with other charges for telecommunications that are taxable, (ii) those charges are not separately stated on the customer bill or invoice, and (iii) the retailer can reasonable identify the nontaxable charges on the retailer's books and records kept in the regular course of business. If the nontaxable charges cannot reasonably be identified, the gross charge from the sale of both taxable and nontaxable services of telecommunications billed on a combined basis shall be attributed to the taxable services or telecommunications. The burden of proving nontaxable charges shall be on the retailer of the telecommunications.

Interstate Telecommunications. All telecommunications that either originate or terminate outside this State.

Intrastate Telecommunications. All telecommunications that originate and terminate within this State.

Person. Any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, or a receiver, trustee, guardian, or other representative appointed by order of any court, the Federal and State governments, including State universities created by statute, or any city, town, county, or other political subdivision of this State.

Purchase at Retail. The acquisition, consumption or use of telecommunications through a sale at retail.

Retailer. Includes every person engaged in the business of making sales at retail as defined in this Article. The Department may, in its discretion, upon application, authorize the collection of the tax hereby imposed by any retailer not maintaining a place of business within this State, who, to the satisfaction of the Department, furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued, without charge, a permit to collect such tax. When so authorized, it shall be the duty of such retailer to collect the tax upon all of the gross charges for telecommunications in this State in the same manner and subject to the same requirements as a retailer maintaining a place of business within this State. The permit may be revoked by the Department at its discretion.

Retailer Maintaining a Place of Business in this State, or any like term. Includes any retailer having or maintaining within this State, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.

Sale at Retail. The transmitting, supplying or furnishing of telecommunications and all services and equipment provided in connection therewith for a consideration, to persons other than the Federal and State governments, and State universities created by statute and other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries for their use or consumption and not for resale.

Service Address. The location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received by a taxpayer. In the event this may not be a defined location, as in the case of mobile phones, paging systems, and maritime systems, service address means the customer's place of primary use as defined in the Mobile Telecommunications Sourcing Conformity Act. For air-to-ground systems and the like, "service address" shall mean the location of a taxpayer's primary use of the telecommunications equipment as defined by telephone number, authorization code, or location in Illinois where bills are sent.

Taxpayer. A person who individually or through his or her agents, employees, or permittees engages in the act or privilege of originating or receiving telecommunications in a municipality and who incurs a tax liability as authorized by the Ordinance.

Telecommunications. In addition to the meaning ordinarily and popularly ascribed to it, includes, without limitation, messages or information transmitted through use of local, toll, and wide area telephone service, private line services, channel services, telegraph services, teletypewriter, computer exchange services, cellular mobile telecommunications service, specialized mobile radio, stationary two-way radio, paging service, or any other form of mobile and portable one-way or two-way communications, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. As used in this Ordinance, "private line" means a dedicated non-traffic sensitive service for a single customer, that entitles the customer to exclusive or priority use of a communications channel or group of channels, from one or more specified locations to one or more other specified locations. The definition of "telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchases of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the taxable end-to-end communications. Carrier access charges, right of access charges, charges for use of inter-company facilities, and all telecommunications resold in the subsequent provision of, used as a component of, or integrated into, end-to-end telecommunications service shall be non-taxable as sales for resale. Prepaid telephone calling arrangements shall not be considered "telecommunications" subject to the tax imposed under this Ordinance. For purposes of this Article, "prepaid telephone calling arrangements" means that term as defined in Section 2-27 of the Retailers' Occupation Tax Act.

1044 Simplified Municipal Telecommunications Tax Imposed

A tax is hereby imposed upon any and all the following acts or privileges:

- A. The act or privilege of originating in the municipality or receiving in the municipality intrastate telecommunications by a person at a rate of six percent (6%) of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-municipal taxation of the act or privilege that is subject to taxation under this subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another municipality on that event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of the tax properly due and paid in the municipality that was not previously allowed as a credit against any other municipal tax.
- B. The act or privilege of originating in the municipality or receiving in the municipality interstate telecommunications by a person at a rate of six percent (6%) of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-state or multi-municipal taxation of the act or privilege that is subject to taxation under this subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another State or municipality in this State on such event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of such tax properly due and paid in such other State or such tax properly due and paid in another municipality in this State which was not previously allowed as a credit against any other state or local tax in this State.
- C. The tax imposed by this Ordinance is not imposed on such act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by the municipality.

1045 Collection of Tax by Retailers

- A. The tax authorized by this Ordinance shall be collected from the taxpayer by a retailer maintaining a place of business in this State and shall be remitted by such retailer to the Department. Any tax required to be collected pursuant to or as authorized by this Ordinance and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Retailers shall collect the tax from the taxpayer by adding the tax to the gross charge for the act or privilege of originating or receiving telecommunications when sold for use, in the manner prescribed by the Department. The tax authorized by this Ordinance shall constitute a debt of the taxpayer to the retailer until paid, and, if unpaid, is recoverable at law in the same manner as the original charge for such sale at retail. If the retailer fails to collect the tax from the taxpayer, then the taxpayer shall be required to pay the tax directly to the Department in the manner provided by the Department.

- B. Whenever possible, the tax authorized by this Ordinance shall, when collected, be stated as a distinct item separate and apart from the gross charge for telecommunications.

1046 Returns to Department

On or before the last day of August, 2010 and on or before the last day of every month thereafter, the tax imposed under this Ordinance on telecommunication retailers shall be returned with appropriate forms and information as required by the Department pursuant to the Illinois Simplified Municipal Telecommunications Tax Act, 35 ILCS 636/5-50 as may be amended from time to time, and any accompanying rules and regulations created by the Department to implement the Act.

1047 Resellers

1047.1 If a person who originates or receives telecommunications claims to be a reseller of such telecommunications, such person shall apply to the Department for a resale number. Such applicant shall state facts which will show the Department why such applicant is not liable for the tax authorized by this Article on any of such purchases and shall furnish such additional information as the Department may reasonably require.

1047.2 Upon approval of the application, the Department shall assign a resale number to the applicant and shall certify such number to the applicant. The Department may cancel any number which is obtained through misrepresentation, or which is used to send or receive such telecommunication tax-free when such actions in fact are not for resale, or which no longer applies because of the person's having discontinued the making of resales.

1047.3 Except as provided hereinabove in this Section, the act or privilege of originating or receiving telecommunications in this State shall not be made tax-free on the ground of being a sale for resale unless the person has an active resale number from the Department and furnishes that number to the retailer in connection with certifying to the retailer that any sale to such person is non-taxable because of being a sale for resale.

1048 Severability

If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

1049 Effective Date

This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law, provided, however, that the tax provided for herein shall take effect for all bills issued on or after the first day of July, 2010 Copies of this Ordinance shall be certified and sent to the Illinois Department of Revenue prior to March 20, 2010.