

CHAPTER 36

TAXATION

ARTICLE I - GENERALLY

36-1-1 **CORPORATE RATE.** The maximum rate for general corporate purposes of the Village be and the same is hereby established at a rate of **.33%**. (See **65 ILCS 5/8-3-1**)

36-1-2 **POLICE TAX.** The maximum rate for police protection purposes of the Village be and the same is hereby established at a rate of **.075%**. (See **65 ILCS 5/11-1-3**)

36-1-3 **AUDIT TAX.** The Village Board may levy a "Municipal Auditing Tax" upon all taxable property in the Village which will produce an amount which will equal the cost of all auditing for the Village. (See **65 ILCS 5/8-8-8**)

36-1-4 **F.I.C.A. TAX.** The Village Board may levy a tax upon all taxable property in the Village at whatever rate is necessary to participate in the federal Social Security System. (See **40 ILCS 5/21-101 et seq.**)

36-1-5 **GENERAL LIABILITY.** The Village Board may levy a tax upon all taxable property in the Village at whatever rate is necessary to purchase general liability insurance for the Village.

36-1-6 **LIBRARY TAX.** The maximum tax for Library purposes, be and the same is hereby established at a rate of **.15%**. (See **75 ILCS 5/3-1 and 5/3-4**)

36-1-7 **GARBAGE TAX.** The maximum tax for garbage collection purposes, be and the same is hereby established at a rate of **.20%**. (See **65 ILCS 5/11-19-4**)

36-1-8 **WORKMEN'S COMPENSATION.** The maximum tax for Worker's Compensation and Occupational Diseases Claims purposes, be and the same is hereby established at a rate to pay for legal services, purchase insurance, purchase claim services, pay for judgments and settlements. (See **745 ILCS 10/9-107**)

36-1-9 **PUBLIC PARKS TAX.** The maximum tax for Public Park purposes, be and the same is hereby established at a rate of **.075%**. (See **65 ILCS 5/11-98-1**)

36-1-10 **STREET AND BRIDGE.** The maximum tax for Street and Bridge purposes, be and the same is hereby established at a rate of **.06%**. (See **65 ILCS 5/11-81-1 and 5/11-81-2**)

ARTICLE II - GAS UTILITIES TAX

36-2-1 **TAX IMPOSED.** A tax is imposed on all persons engaged in the following occupations or privileges: persons engaged in the business of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of the Village, and not for resale, at the rate of **five percent (5%)** of the gross receipts therefrom.

36-2-2 **EXEMPTIONS.** No tax is imposed by this Article with respect to any transaction in 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 shall any persons engaged in the business of distributing, supplying, furnishing or selling gas be subject to taxation under the provisions of this Article for such transactions as are or may become subject to taxation under the provisions of the "Municipal Retailers' Occupation Tax Act" authorized by Section 8-11-1 of the Illinois Municipal Code.

36-2-3 **ADDITIONAL TAXATION.** Such tax shall be in addition to the payment of money, or value of products or services furnished to this Village 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.

36-2-4 **DEFINITIONS.** For the purposes of this Article, the following definitions shall apply:

(A) **"Gross receipts"** means the consideration received for distributing, supplying, furnishing or selling gas 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 the service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expenses whatsoever; provided, however that "gross receipts" shall not include any amounts specifically excluded from the definition of gross receipts in Section 8-11-2(d) of the Illinois Municipal Code.

(B) **"Person"** means 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, guardian, or other representative appointed by order of any court.

36-2-5 **EFFECTIVE DATES OF IMPOSITION OF TAX.** The tax provided for herein shall be based on the gross receipts, as herein defined, actually paid to the taxpayer for services billed on or after the **first (1st) day of August, 2010.**

36-2-6 **REPORTS TO MUNICIPALITY.** On or before the last day of **September, 2010**, each taxpayer shall make a return to the Village Treasurer for the month of **August, 2010**, 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.

On or before the last day of every month thereafter, each taxpayer shall make a like return to the Village Treasurer for a corresponding **one (1) 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.

36-2-7 **CREDIT FOR OVERPAYMENT.** If it shall appear that an amount of tax has been paid which was not due under the provisions of this Article, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Article from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than **three (3) years** prior to the filing of a claim therefore shall be so credited.

36-2-8 **LIMITATIONS.** No action to recover any amount of tax due under the provisions of this Article shall be commenced more than **three (3) years** after the due date of such amount.

36-2-9 **PENALTIES.** Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than **One Hundred Dollars (\$100.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** and in addition shall be liable in a civil action for the amount of tax due.

(Ord. No. 10-08; 07-08-10)

ARTICLE III - ELECTRIC UTILITY TAX

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

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

(1)	First 2,000 KWH	.264 cents per KWH
(2)	Next 48,000 KWH	.173 cents per KWH
(3)	Next 50,000 KWH	.156 cents per KWH
(4)	Next 400,000 KWH	.152 cents per KWH
(5)	Next 500,000 KWH	.147 cents per KWH
(6)	Next 2,000,000 KWH	.139 cents per KWH
(7)	Next 2,000,000 KWH	.137 cents per KWH
(8)	Next 5,000,000 KWH	.134 cents per KWH
(9)	Next 10,000,000 KWH	.132 cents per KWH
(10)	Over 20,000,000 KWH	.130 cents per KWH

36-3-2 **EXCEPTIONS; EXEMPTIONS.**

(A) None of the taxes authorized by this Article may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, or selling or transmitting gas or electricity, or using or consuming electricity acquired in a purchase at retail, be subject to taxation under the provisions of this Article for those transactions that are or may become subject to taxation under the provisions of the "Municipal Retailers' Occupation Tax Act" authorized by Section 8-11-1 of the Illinois Municipal Code; nor shall any tax authorized by this Article be imposed upon any person engaged in a business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in business of the same class in the Village, whether privately or municipally owned or operated, or exercising the same privilege within the Village.

(B) Any local governmental body or school district whose territory includes the municipality shall be exempted from the taxes imposed by this Article for such accounts attributable to buildings and facilities located in the Village.

36-3-3 **ADDITIONAL TAXES.** Such taxes shall be in addition to other taxes levied upon the taxpayer or a person maintaining a place of business in this State. All of the taxes enumerated in this Article are in addition to the payment of money, or value of products or services furnished to the Village by the taxpayer or person maintaining a place of business in this State 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 its business.

36-3-4 **COLLECTION.** The tax authorized by this Article shall be collected from the purchaser by the person maintaining a place of business in this State who delivers the electricity to the purchaser. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and if unpaid, is recoverable in the same manner as the original charge for delivering the electricity. Any tax collected by the person maintaining a place of business in this State delivering the electricity shall constitute a debt owed to the Village by such person maintaining a place of business in this State. Persons delivering the electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering electricity shall also be authorized to

add to such gross charge an amount equal to **three percent (3%)** of the tax to reimburse the person delivering the electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the Village upon request. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the Village in the manner prescribed by the Village. Persons delivering electricity who file returns pursuant to this Section shall, at the time of filing such return, pay the Village the amount of the tax collected pursuant to this Article.

36-3-5 REPORTS TO VILLAGE. On or before the last day of each month, each person maintaining a place of business in this State who delivers the electricity to the purchaser, in the case of the tax imposed by this Article, and each taxpayer, in the case of the tax imposed by this Article, shall make a return to the Village for the preceding month stating:

- (A) Its name.
- (B) Its principal place of business.
- (C) Its gross receipts or kilowatt-hour usage, as applicable, 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.

Each person making the return herein provided for shall, at the time of making such return, pay to the Village, the amount of tax herein imposed; provided that in connection with any return, the person may, if he so elects, report and pay an amount based upon a reasonable estimate of the 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 or kilowatt-hour usage, as applicable.

36-3-6 CREDIT FOR OVER-PAYMENT. If it shall appear that an amount of tax has been paid which was not due under the provisions of this Article, whether as the result of a mistake of fact or an error of law, then such amount shall be credited to the extent permitted by law.

36-3-7 DEFINITIONS. For the purpose of this Article the following terms shall have the meanings ascribed to them herein:

"Gross Receipts": The consideration received for distributing, supplying, furnishing or selling gas for use or consumption and not for resale, 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 the service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expenses whatsoever; provided, however that "Gross Receipts" shall not include (i) any amounts specifically excluded from the definition of gross receipts in Section 8-11-2(d) of the Illinois Municipal Code and (ii) that portion of the consideration received for the distributing, supplying, furnishing or selling gas to any local governmental body or school district whose territory includes the municipality.

"Person": Any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, limited liability company, municipal corporation, the State or any of its political subdivisions, any State university created by statute, or a receiver, trustee, guardian, 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 person 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 person, subsidiary or other affiliate is licensed or qualified to do business in this State.

"Public Utility": Shall have the meaning ascribed to it in Section 3-105 of the Public Utilities Act, but shall include alternative retail electric suppliers as defined in Section 16-102 of that Act.

"Purchaser": Any person who uses or consumes, within the corporate limits of the Village, electricity acquired in a purchase at retail, excluding any local governmental body or school district whose territory includes the municipality.

"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 directly in the generation, production, transmission, delivery or sale of electricity.

36-3-8 LIMITATION OF LIABILITY. If the provisions of this Article with respect to the exemption of school districts and units of local government from the taxes imposed by this Article or the application thereof are held unconstitutional or otherwise invalid, the amount of tax due as a consequence of such holding shall be limited to the amount that the taxpayer is authorized to charge and collect from such school districts and units of local government pursuant to the provisions of Section 9-221 of the Public Utilities Act or any successor thereto.

36-3-9 NOTICE; ADDRESS LIST. The Village Clerk is hereby directed to send a certified copy of this Article to all utilities which provide service to customers within the Village and to cooperate with such utilities in determining addresses of premises subject to the taxes herein described, including but not limited to the names and addresses of each school district and unit of local government which own facilities within the corporate limits of the Village.

36-3-10 PRIOR ORDINANCES. To the extent that within Ordinance conflicts with any prior Ordinances relating to the taxation of electricity and/or natural gas in the Village, the within Ordinance shall prevail.

36-3-11 EFFECTIVE DATE. This Article shall be in full force and effect, following its passage, approval and publications as required by law and shall be effective with respect to (i) the use or consumption of electricity and (ii) Gross Receipts actually paid to the taxpayer for services billed on or after the **14th of January, 2016.**

(Ord. No. 16-02; 01-14-16)

ARTICLE IV - SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX

36-4-1 **DEFINITIONS.** As used in this Article, the following terms shall have the following meanings:

(A) **"Amount Paid"** means the amount charged to the taxpayer's service address in such municipality regardless of where such amount is billed or paid.

(B) **"Department"** means the Illinois Department of Revenue.

(C) **"Gross Charge"** means 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:

- (1) any amounts added to a purchaser's bill because of a charge made pursuant to:
 - (a) the tax imposed by this Article,
 - (b) the tax imposed by the Telecommunications Excise Tax Act,
 - (c) the tax imposed by Section 4251 of the Internal Revenue Code,
 - (d) 911 surcharges, or
 - (e) 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;
- (2) charges for a sent collect telecommunication received outside of such municipality;
- (3) charges for leased time on equipment or charges for the storage of data or information or 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;
- (4) 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;
- (5) charges to business enterprises certified 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;
- (6) 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 Article 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;

- (7) 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);
- (8) charges paid by inserting coins in coin-operated telecommunication devices; or
- (9) amounts paid by telecommunications retailers under the Telecommunications Infrastructure Maintenance Fee Act.
- (10) 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 reasonably 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.

(D) **"Interstate Telecommunications"** means all telecommunications that either originate or terminate outside this State.

(E) **"Intrastate Telecommunications"** means all telecommunications that originate and terminate within this State.

(F) **"Person"** means 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.

(G) **"Purchase at Retail"** means the acquisition, consumption or use of telecommunications through a sale at retail.

(H) **"Retailer"** means and includes every person engaged in the business of making sales at retail as defined in this Section. 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.

(I) **"Retailer maintaining a place of business in this State"**, or any like term, means and 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.

(J) **"Sale at Retail"** means 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.

(K) **"Service Address"** means 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.

(L) **"Taxpayer"** means 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 Article.

(M) **"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 Article, "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 telecommunication 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 Article. For purposes of this Section, "prepaid telephone calling arrangements" means that term as defined in Section 2-27 of the Retailer's Occupations Tax Act.

36-4-2 SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX IMPOSED. A tax imposed upon any and all of the following acts or privileges:

(A) The act or privilege of originating in the Village or receiving in the Village 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 Village or receiving in the Village 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 Section, 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 Article 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 Village.

36-4-3 COLLECTION OF TAX BY RETAILERS.

(A) The tax authorized by this Article 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 Article 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 Article 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 Article shall, when collected, be stated as a distinct item separate and apart from the gross charge for telecommunications.

36-4-4 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 Article 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 (Public Act 92-526, Section 5-50) and any accompanying rules and regulations created by the Department to implement this Act.

36-4-5 RESELLERS.

(A) 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.

(B) 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 telecommunications 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.

(C) 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.

36-4-6 REBATES AND EXEMPTIONS. To the extent that the Village's territory includes part of another unit of local government or a school district, the Village may, by separate ordinance, rebate some or all of the amount of the tax authorized by this Article paid by the other unit of local government or school district. Any such rebate shall be paid by the Village directly to the other unit of local government or school district qualifying for the rebate as determined by the Village's ordinance, which shall not be filed with the Department.

ARTICLE V – WATER UTILITY TAX

36-5-1 IMPOSITION OF WATER UTILITY TAX. A tax is imposed on all persons engaged in the following occupations or privileges:

(A) The privilege of using or consuming water acquired in a Purchase at Retail and used or consumed within the corporate limits of the Village shall be taxed at the rate of **three percent (3%)** of the gross receipts and calculated on a monthly basis for each Purchaser.

36-5-2 EXCEPTIONS; EXEMPTIONS.

(A) None of the taxes authorized by this Article may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, or selling, or using or consuming water acquired in a Purchase at Retail, be subject to taxation under the provisions of this Article for those transactions that are or may become subject to taxation under the provisions of the "Municipal Retailers' Occupation Tax Act" authorized by Section 8-11-1 of the Illinois Municipal Code; nor shall any tax authorized by this Article be imposed upon any person engaged in a business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in businesses of the same class in the Village, whether privately or municipally owned or operated, or exercising the same privilege within the Village. None of the within taxes shall be imposed on water sold directly by the Village but shall instead be imposed upon the sale of water by any other entity not otherwise excluded by this Article.

(B) The Village shall be exempted from the taxes imposed by this Article for such accounts attributable to buildings and facilities located in the Village.

36-5-3 ADDITIONAL TAXES. Such taxes shall be in addition to other taxes levied upon the taxpayer or a Person Maintaining a Place of Business in this State. All of the taxes enumerated in this Article are in addition to the payment of money, or value of products or services furnished to the Village by the taxpayer or Person Maintaining a Place of Business in this State as compensation for the use of its streets, alleys, or other public places, or installation and maintenance therein, thereon or thereunder of equipment used in the operation of its business.

36-5-4 COLLECTION. The tax authorized by this Article shall be collected from the Purchaser by the Person Maintaining a Place of Business in this State who delivers the water to the Purchaser. This tax shall constitute a debt of the Purchaser to the person who delivers the water to the Purchaser and if unpaid, is recoverable in the same manner as the original charge for delivering the water. Any tax collected by the Person Maintaining a Place of Business in this State delivering the water shall constitute a debt owed to the Village by such Person Maintaining a Place of Business in this State. Persons delivering the water shall collect the tax from the Purchaser by adding such tax to the gross charge for delivering the water. Persons delivering the water shall also be authorized to add to such gross charge an amount equal to **three percent (3%)** of the tax to reimburse the person delivering the water for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the Village upon request. If the person delivering the water fails to collect the tax from the Purchaser, then the Purchaser shall be required to pay the tax directly to the Village in the manner prescribed by the Village. Persons delivering the water who file returns pursuant to this paragraph shall, at the time of filing such return, pay the Village the amount of the tax collected pursuant to this Article.

36-5-5 **REPORTS TO VILLAGE.** On or before the last day of each month, each Person Maintaining a Place of Business in this State who delivers the water to the Purchaser, in the case of the tax imposed by this Article, and each taxpayer shall make a return to the Village for the preceding month stating:

- (A) Its name.
- (B) Its principal place of business.
- (C) Its gross receipts, as applicable, 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.

Each person making the return herein provided for shall, at the time of making such return, pay to the Village, the amount of tax herein imposed; provided that in connection with any return, the person may, if he so elects, report and pay an amount based upon a reasonable estimate of the 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.

36-5-6 **CREDIT FOR OVER-PAYMENT.** If it shall appear that an amount of tax has been paid which was not due under the provisions of this Article, whether as the result of a mistake of fact or an error of law, then such amount shall be credited to the extent permitted by law.

36-5-7 **DEFINITIONS.** For the purpose of this Article the following terms shall have the meanings ascribed to them herein:

"Gross Receipts": The consideration received for distributing, supplying, or selling water for use or consumption and not for resale, 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 the service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expenses whatsoever; provided, however that "Gross Receipts" shall not include: (i) any amounts specifically excluded from the definition of gross receipts in Section 8-11-2(d) of the Illinois Municipal Code and (ii) that portion of the consideration received for the distributing, supplying, furnishing or selling water to the Village.

"Person": Any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, limited liability company, municipal corporation, the State or any of its political subdivisions, any State university created by statute, or a receiver, trustee, guardian, 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 person 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 person, subsidiary or other affiliate is licensed or qualified to do business in this State.

"Public Utility" shall have the meaning ascribed to it in Section 3-105 of the Public Utilities Act, but shall include alternative retail water suppliers as defined in Section 16-102 of that Act.

"Purchaser": Any person who uses or consumes, within the corporate limits of the Village, water acquired in a Purchase at Retail, excluding any local governmental body or school district whose territory includes the municipality.

"Purchase at Retail": Any acquisition of water by a Purchaser for purposes of use or consumption, and not for resale.

36-5-8 **LIMITATION OF LIABILITY.** If the provisions of this Article with respect to the exemption of the Village from the taxes imposed by this Article or the application thereof are held unconstitutional or otherwise invalid, the amount of tax due as a consequence of such holding shall be limited to the amount that the taxpayer is authorized to charge and collect from such school districts and units of local government pursuant to the provisions of Section 9-221 of the Public Utilities Act or any successor thereto.

36-5-9 **NOTICE; ADDRESS LIST.** The Village Clerk is hereby directed to send a certified copy of this Article to all utilities which provide service to customers within the Village and to cooperate with such utilities in determining addresses of premises subject to the taxes herein described, including but not limited to the names and addresses of each school district and unit of local government which own facilities within the corporate limits of the Village.

36-5-10 **PRIOR ORDINANCES.** To the extent that the within Ordinance conflicts with any prior Ordinances relating to the taxation of water in the Village, the within Ordinance shall prevail.

36-5-11 **EFFECTIVE DATE.** This Article shall be in full force and effect, following its passage, approval and publications as required by law and shall be effective with respect to (i) the use or consumption of water and (ii) Gross Receipts actually paid to the taxpayer for services billed on or after the adoption of this Article.

(Ord. No. 2018-07; 03-08-18)

(65 ILCS 5/8-11-2(4))