

## **CHAPTER 41 MUNICIPAL TAXES**

### **41.01 HOTEL/MOTEL TAX**

#### **A. DEFINITIONS**

**Hotel:** Any building or buildings in which the public may, for a consideration, obtain living quarters, sleeping or housekeeping accommodations. The term includes, but is not limited to, inns, motels, tourist homes or courts, lodging houses, rooming houses and apartment houses, retreat centers, conference centers, and hunting lodges.

**Operator:** Any person operating a hotel.

**Occupancy:** The use or possession, or the right to the use or possession, of any rooms in a hotel for any purpose, or the right to the use or possession of the furnishings, or to the services and accommodations accompanying the use and possession of the room or rooms.

**Room or Rooms:** Any living quarters, sleeping or housekeeping accommodations.

**Permanent Resident:** Any person who has occupied or has the right to occupy any room or rooms, regardless to whether or not it is the same room or rooms, in a hotel for at least 30 consecutive days.

**Rent or Rental:** The consideration received for occupancy, valued in money, whether received in money or otherwise, including all receipts, cash, credits, property or services of any kind or nature.

**Person:** Any natural individual, firm, partnership, association, limited liability company, trust, joint stock company, joint adventure, public or private corporation, or a receiver, executor, trustee, guardian or other representative appointed by order of any court.

#### **B. TAX IMPOSED**

A tax is hereby imposed upon each person engaged in the business of renting, letting or leasing rooms in a hotel at the rate of five percent (5%) of the gross rental receipts from such renting, leasing or letting, excluding, however, from gross rental receipts, the proceeds of such renting, leasing or letting to permanent residents of that hotel.

#### **C. PAYMENT AND COLLECTION**

1. The tax levied herein shall be paid in addition to any and all other taxes. It shall be the duty of the person operating every hotel to collect said tax from the guest or lodger, and to pay over to the Village Administrator or his/her designee said tax on a monthly basis as provided herein.

2. Every person required to collect the tax levied by this ordinance shall receive said tax from the guest or lodger at the time the room charge is paid. A receipt, invoice or other statement or memorandum showing the itemized rental and all other taxes shall be issued to the user, lessee or tenant.

## **C. ADMINISTRATION AND ENFORCEMENT**

1. Inspections. The Village Administrator or his/her designee may enter the premises of any hotel for inspection and examination of books and records for the proper administration of this ordinance and enforcement and collection of the tax imposed. It shall be unlawful for any person to prevent, hinder or interfere with the Village Administrator or his/her designee in enforcing this ordinance.

2. Records Required. It shall be the duty of every person operating a hotel in the Village to keep accurate and complete books and records to which the Village Administrator or his/her designee shall, at all times, have full access, which records shall include a daily sheet showing:

a. The number of hotel rooms rented during the 24-hour period, including multiple rentals of the same hotel when such occurs; and

b. The actual hotel room tax receipts collected from the date in question.

3. Monthly Tax Returns. Every person operating a hotel shall file tax returns showing tax receipts received with respect to each hotel during each month of each year, within 30 days after the end of the respective date, upon forms prescribed by the rules and regulations of the Village Administrator or his/her designee. At the time of filing said tax returns, the person operating the hotel shall pay to the Village Administrator or his/her designee all taxes due for the period which the tax return applies. Each return shall be accompanied by payment to the Village of all taxes due and owing for the quarter covered by the return.

4. Failure to Pay Tax.

a. Interest and Penalty. In the event any hotel 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 10 percent (10%) of the tax and interest due shall be assessed and collected against any hotel owner, manager or operator.

b. Suit for Collection. Whenever a person fails to pay the tax required herein, the Village Attorney shall, upon the request of the Village Administrator or his/her designee, bring or cause to be brought an action to enforce the payment of said tax

on behalf of the Village in any court of competent jurisdiction. Any legal fees incurred by the Village in the cost of the collection shall be paid by the person owing such tax to the Village.

- c. **Revocation of Village Licenses.** If the Village Administrator or his/her designee, after conducting a hearing, finds that any person has willfully avoided payment of the tax imposed herein, the Village Administrator may suspend or revoke all Village licenses held by the relevant hotel. Such person shall have an opportunity to be heard at a hearing, held not less than five days after notice of the time and place of hearing, with said notice addressed to the person at the last known place of business, has been delivered to the operator.

#### **D. PENALTY**

Any person found guilty of violating any provision of this ordinance, 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.

### **41.02 SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX**

**A. TAX IMPOSED; RATE.** A simplified municipal telecommunications tax is hereby imposed upon the act or privilege of originating in the municipality or receiving in the municipality intrastate or interstate telecommunications by a person at the rate of 6% of the gross charges for such telecommunications purchased at retail from a retailer, in accordance with and subject to the provisions of the Simplified Municipal Telecommunications Tax Act (35 ILCS 636/5-1 et seq.).

**B. ILLINOIS DEPARTMENT OF REVENUE TO ADMINISTER.** The tax hereby imposed in Section 41.02(A) shall be collected and enforced by the Department of Revenue of the State of Illinois. The Illinois Department of Revenue shall have the full power to administer and enforce the provisions of this Ordinance.

### **41.03 UTILITY TAXES**

- A. DEFINITIONS** Terms used in this Chapter, whether capitalized or not, mean as follows:

**Gross receipts:** The consideration received for furnishing or selling water, the transmission of messages, or 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 the service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expenses whatsoever. Gross receipts shall not include receipt from the Village for the sale to the Village of any of the utility products or services mentioned above.

“Gross receipts” shall not include any amounts specifically excluded from the definition of gross receipts in 65 ILCS 5/8-11-2(d).

**Person:** Any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, trust, municipal corporation or political subdivision of this State, or a receiver, trustee, conservator or other representative appointed by order of any court, including but not limited to a guardian, and any State university created by statute.

**Person maintaining a place of business in this State:** Any person having or maintaining within the 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 the 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 the State permanently or temporarily, or whether such person, subsidiary or other affiliate is licensed or qualified to do business in the State.

**Purchase at retail:** Any acquisition of a utility product 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, 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, a utility product acquired in a purchase at retail (other than an exempt purchaser).

**Tax collector or Taxpayer:** The person delivering a utility product to the purchaser.

**B. TAXES IMPOSED** A tax is imposed on all persons engaged in the following occupations or privileges:

1. 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 of the gross receipts therefrom. Subject, however, to all the provisions, conditions and limitations of 65 ILCS 5/8-11-2, authorizing these taxes, and to all the provisions, conditions and limitations in this Section, consistent with the powers conferred upon the Village by Section 5/8-11-2 and other relevant law.

2. Limitations: No tax is imposed by this Section 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 person engaged in the business of distributing, supplying, furnishing or selling gas or electricity, or engaged in the business of distributing, supplying, furnishing or selling gas 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 Section 8-11-1 of the Illinois Municipal Code.

3. Application: Such tax shall be in addition to the payment or 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 there under of poles, wire, pipes or other equipment used in the operation of the taxpayer’s business.

4. Statement: On or before the last day of each month each taxpayer shall make a return to the Treasurer for the preceding month stating:

- a. His or her name;
- b. His or her principal place of business;
- c. His or her gross receipts during those months upon the basis of which the tax is imposed;
- d. Amount of tax; and
- e. Such other reasonable and related information as the corporate authorities may require.

On or before the last day of every third month, each taxpayer shall make a like return to the Treasurer for a corresponding one-month period.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the Treasurer the amount of tax imposed herein; provided that in connection with any return the taxpayer may, if he so elects, report any pay in 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 difference between such billings and the taxable gross receipts.

5. Credit for Overpayment: If it appears 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 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.

6. Recovery Deadline: No action to recover any amount of tax due under the provisions of this Section shall be commenced more than three years after the due date of such amount.

7. Penalty: Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Section is guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$100 nor more than \$200 and, in addition, shall be liable in a civil action for the amount of tax due.

8. Effective Date: The tax provided for in this Section shall be based on the gross receipts, as herein defined, actually paid to the taxpayer for services billed on or after the first day of August, 2010. The Village Board shall review the utility tax annually along with all other taxes and revenues sources during the annual budget review.

**C. MUNICIPAL UTILITY TAX ON ELECTRIC CONSUMPTION TAX IMPOSED:**

Pursuant to the Illinois Municipal Code (65 ILCS 5/8-11-2) and any other applicable authority, a tax is imposed upon the privilege of using or consuming electricity purchased 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, except the Village:

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

**D. EFFECTIVE DATE:**

The tax provided for in this Section shall be based on the gross receipts, as herein defined, actually paid to the taxpayer for services billed on or after the first day of August, 2010. The Village Board shall review the utility tax annually along with all other taxes and revenues sources during the annual budget review.

**E. RETAIL SALE:**

It shall be presumed that any electricity delivered to a person within the Village is sold at retail, for its use or consumption within the Village. This presumption is refutable only by clear and convincing evidence.

**F. COLLECTION:**

The tax imposed by this Section shall be collected from the purchaser by the person maintaining a place of business in this State who delivers the electricity to the purchaser. The tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser. If the tax is unpaid it is recoverable in the same manner as the original charge for delivering the electricity. Any tax required to be collected pursuant to this Section and any such tax collected by a person delivering electricity shall constitute a debt owed to the municipality by such person delivering the electricity, provided that the person delivering electricity shall be allowed credit for such tax related 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 to the Village. 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 be authorized to add to such gross charge an amount equal to three percent of the tax assessed pursuant to this Section to reimburse the person delivering electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting tax and supplying data to the Village. 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 herein. 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 Section.

**G. BOOKS AND RECORDS:**

Every person delivering electricity who is required to collect a tax pursuant to Section 41.03(C) shall keep accurate books and records of all transactions which may affect the tax provided for herein including, but not limited to, records of the number of Kilowatt-hours used by each consumer within the Village for each month, the charge imposed upon each consumer for the sale of the electricity and any related services, the amount of tax imposed by this Section billed to each consumer of electricity and the amount of tax actually collected, the amount of the charge imposed and collected by the electric distributor as compensation for collecting the tax provided for in Section 41.03(C).

Every person delivering electricity that is required to collect a tax as set forth herein shall provide to the Village, within seven days of written request, copies of all records, or any part thereof, which the Village requests, which the electricity deliverer is required to keep pursuant to this Section.

#### **H. TAX REMITTANCE AND RETURN:**

Every person collecting a tax pursuant to Section 41.03(C) shall, on a monthly basis, file a return with the Village in a form prescribed by the Village along with the total revenues collected. The return and accompanying remittance shall be delivered to the Village 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 41.03(C).

Each person who is required to pay a tax and has not paid said tax to the electricity deliverer as provided for herein, shall file a return with the Village as provided in Section 41.03(C) and pay directly to the Village the tax on or before the last day of the month following the month during which the electricity was used or consumed.

### **41.04 NON-HOME RULE MUNICIPAL OCCUPATION, SERVICE AND USE TAXES**

#### **A. TAX IMPOSED; RATE**

1. A tax is hereby imposed: i) upon the privilege of using, in the Village, any item of tangible personal property which is purchased at retail from a retailer, and which is titled or registered with an agency of this State's government, based on the selling price of such tangible personal property, as "selling price" is defined in the Use Tax Act, 35 ILCS 105/1 *et seq.*, at the rate of 0.5% while this Ordinance is in effect; and ii) upon all persons engaged, in the Village, in the business of selling tangible personal property, other than on an item of tangible personal property which is titled and registered by an agency of this State's government, at retail in the Village at the rate of 0.5% of the gross receipts from such sales made in the course of such business while this Ordinance is in effect; and iii) upon all persons engaged, in the Village, in the business of making sales of service, at the rate of 0.5% of the selling price of all tangible personal property transferred by such servicemen either in the form of tangible personal property or in the form of real estate as an incident to a sale of service. This "Non-Home Rule Municipal Retailers' Occupation Tax," "Non-Home Rule Municipal Service Occupation Tax" and "Non-Home Rule Municipal Use Tax" shall not be applicable to the sales of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics.



2. The imposition of these non-home rule taxes is in accordance with and subject to the provisions of Sections 8-11-1.1, 8-11-1.2, 8-11-1.3, 8-11-1.4 and 8-11-1.5 of the Illinois Municipal Code (65 ILCS 5/8-11-1.1, 8-11-1.2, 8-11-1.3, 8-11-1.4 and 8-11-1.5).

**B. COLLECTION OF TAX BY RETAILERS**

1. The taxes imposed by this Ordinance in Section 41.04(A) shall be remitted by such retailer to the Illinois Department of Revenue (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 may reimburse themselves for their seller's tax liability hereunder by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that sellers are required to collect.

2. The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department. The Department shall have full power to administer and enforce the provisions of this article.

**41.05 MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX**

**A. TAX IMPOSED; RATE**

1. A tax is hereby imposed upon all persons engaged in the business of selling cannabis, other than cannabis purchased under the Compassionate Use of Medical Cannabis Pilot Program Act, at retail in the Village at the rate of 3% of the gross receipts from those sales made in the course of that business.

2. The imposition of this tax is in accordance with the provisions of Sections 8-11-22 of the Illinois Municipal Code (65 ILCS 5/8-11-22).

**B. COLLECTION OF TAX BY RETAILERS**

1. The tax imposed by this Ordinance in Section 41.05(A) shall be remitted by such retailer to the Illinois Department of Revenue (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 may reimburse themselves for their seller's tax liability hereunder by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that sellers are required to collect.

2. The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department. The Department shall have full power to administer and enforce the provisions of this article.

## **41.06 MUNICIPAL GROCERY RETAILERS' AND GROCERY SERVICE OCCUPATION TAX**

### **A. TAX IMPOSED; RATE**

1. Municipal Grocery Retailers' Occupation Tax. A tax is hereby imposed upon all persons engaged in the business of selling groceries at retail in this municipality at the rate of 1% of the gross receipts from such sales made in the course of such business while this Ordinance is in effect. The imposition of this tax is in accordance with and subject to the provisions of Section 8-11-24 of the Illinois Municipal Code (65 ILCS 5/8-11-24).

2. Municipal Grocery Service Occupation Tax. A tax is hereby imposed upon all persons engaged in this municipality in the business of making sales of service, who, as an incident to making those sales of service, transfer groceries as an incident to a sale of service. The rate of this tax shall be the same rate identified in Section 2, above. The imposition of this tax is in accordance with and subject to the provisions of Section 8-11-24 of the Illinois Municipal Code (65 ILCS 5/8-11-24).

### **B. COLLECTION OF TAX BY RETAILERS**

1. The taxes imposed by this Ordinance in Section 41.06(A) shall be remitted by such retailer to the Illinois Department of Revenue (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 may reimburse themselves for their seller's tax liability hereunder by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that sellers are required to collect.

2. The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department. The Department shall have full power to administer and enforce the provisions of this article.