

## CHAPTER 43

## TAXATION

## ARTICLE I – UTILITY TAX

**43-1-1** **TAX IMPOSED.** 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 Belleville, Illinois. **(Ord. No. 6409; 04-01-02)**

(B) Persons engaged in the business of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of the City, and not for resale, at the rate of **five percent (5%)** of the gross receipts therefrom. **(Ord. No. 6409; 04-01-02)**

(C) **Reserved.**

(D) Persons engaged in the business of distributing, supplying, furnishing, or selling water for use or consumption within the City, and not for resale, at the rate of **five percent (5%)** of the gross receipts therefrom. **(Ord. No. 6409; 04-01-02)**

(E) No tax imposed by this Section, with respect to any transaction and interstate commerce as enunciated in subparagraphs (A) - (D) above, shall include a tax on any tax. **(Ord. No. 6409; 04-01-02)**

**43-1-2** **EXCLUSIONS.** No tax 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 the 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, water 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 **Section 8-11-1** of the Illinois Municipal Code.

**43-1-3** **TAX SHALL BE IN ADDITION TO OTHER TAXES.** 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 taxpayers' business.

**43-1-4**     **DEFINITIONS.** For the purposes of this Section, the following definitions shall apply:

**"GROSS RECEIPTS"** means the consideration received for the transmission of messages, or for distributing, supplying, furnishing or selling gas, electricity, or water for use or consumption and not for resale, as the case may be; except for that consideration received from the City; 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, or any other expenses whatsoever.

**"PERSON"** means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, municipal corporation or political subdivision of this State, or a receiver, trustee, conservator or other representative appointed by order of any court.

**"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 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.

**43-1-5**     **EFFECTIVE DATE.** This Section shall take effect after publication and 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 July, 1981.** (Ord. #3868; 03-30-82)

**43-1-6**     **REPORTS DUE.** On or before the last day of **August, 1981**, make a return to the City Treasurer for the month of **July, 1981**, stating:

- (A)           His name;
- (B)           His principal place of business;
- (C)           His gross receipts during those months 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 City Treasurer for the preceding month.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the City 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.

**43-1-7**      **TAX OVERPAYMENT - LIMITATIONS.** 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 (3) years** prior to the filing of a claim therefor shall be so credited.

**43-1-8**      **ACTIONS TO RECOVER.** No action to recover any amount of tax due under the provisions of this Section shall be commenced more than **three (3) years** after the due date of such amount.

**43-1-9**      **PENALTY.** Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provisions of this Section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than **One Hundred Dollars (\$100.00)**, nor more than **Five Hundred Dollars (\$500.00)** and in addition, shall be liable in a civil action for the amount of tax due.

(Ord. #3792; 05-04-81)

## ARTICLE II

## HOME RULE MUNICIPAL AND SERVICE OCCUPATION TAX

**43-2-1**     **IMPOSITION OF TAX.** A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this State's government, at retail, in this municipality at the rate of **three-quarters percent (3/4%)** of the gross receipts from such sales made in the course of such business while this Code is in effect; and a tax is hereby imposed upon all persons engaged in this municipality in the business of making sales of service, at the rate of **three-quarters percent (3/4%)** of the selling price of all tangible personal property transferred by such serviceman as an incident to a sale of service. (**Ord. No. 7524; 09-19-11**)

The imposition of these home rule taxes are in accordance with the provisions of **Sections 8-11-1 and 8-11-5**, respectively, of the **Illinois Municipal Code (Ch. 65, pars. 5/8-11-1 and 5/8-11-5, of Ill. Comp. Stat., as amended)**. (**Ord. No. 7704; 08-19-13**)

**43-2-2**     **ADMINISTRATION.** The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department of Revenue of the State of Illinois. The Department of Revenue shall have full power to administer and enforce the provisions of this Code.

[Unless Otherwise Noted, This Article Ord. #4740; 05-21-90]

## ARTICLE III

## FOREIGN FIRE INSURANCE TAX

**43-3-1**     **LICENSE FEE.** All corporations, companies and associations not incorporated under the laws of this State, which are engaged in this City in effecting fire insurance, shall pay to the City Treasurer on **July 15** of each year, a sum equal to **two percent (2%)** of the gross receipts of the premiums received by such corporation, association or company, or their agency, agent or agents, for business effected for fire insurance or property situated within the City, for the year preceding **July 1**. The sum above named shall be as a tax or license fee upon all such corporations, companies or associations transacting business within this City. **(Sec. 39.01)**

**43-3-2**     **REPORT.** Every person acting as an agent or otherwise for or on behalf of any such corporation, company or association, shall on or before **July 15** of each year, render to the City Clerk a full, true and just account, verified by oath of all premiums which during the year ending on **July 1** preceding were received by him or any other person for him, in behalf of such corporation, company or association and shall fully and specifically set out in said report, the amount or amounts received as premiums for fire insurance. **(Sec. 39.02)**

**43-3-3**     **PAYMENT TO TREASURER.** The agent shall also, at the time of making the above mentioned report, pay to the City Treasurer the tax or license fee imposed by this Article. **(Sec. 39.03)**

**43-3-4**     **UNLAWFUL TO DO BUSINESS.** If such an account is not rendered on or before **July 15**, or if the above mentioned tax or license fees are unpaid after that day, it shall be unlawful for any such corporation, company or association to transact any business of fire insurance in this City, until the requirements hereof are fully complied with. This provision shall not relieve any company, corporation or association from the payment of any such risk that may be taken in violation hereof. **(Sec. 39.04)**

**43-3-5**     **PENALTY.** If any such corporation, company or association fails to render the report herein designated by the day required, or if the above mentioned rates as a tax or license fee remains unpaid after the day designated, every such corporation, company or association shall forfeit and pay to this City the sum of **Two Hundred Dollars (\$200.00)** upon conviction, for each offense, and in addition to such

penalty the City shall recover in action, in its name, for its use, against such corporation, company or association the full amount of the tax or license fee which would be due under the provisions of this Article. **(Sec. 39.05)**

**43-3-6**      **FUND.** The moneys received under the provisions of this Article shall be paid into the City Treasury and applied for the maintenance, use and benefit of the Fire Department of this City, and shall form and constitute a fund to be kept separate by the City Treasurer, and same shall be annually appropriated by the City Council for the above purpose. **(Sec. 39.06)**

**43-3-7**      **FUNDS APPROPRIATED TO FIREMEN'S PENSION FUND.** All funds now standing to the credit of the Foreign Fire Fund be and the same hereby are appropriated to the Firemen's Pension Fund. **(Ord. #3014; 06-01-71) (Sec. 39.07)**

**43-3-8**      **USE OF FUNDS.** All sums of money collected henceforth, pursuant to **Illinois Revised Statutes, Chapter 24, Section 11-10-1, et seq.** be set apart and appropriated for the use of the Firemen's Pension Fund, for the purpose of pensioning disabled and superannuated members of the Fire Department, and of the widows and orphans of deceased members of the Fire Department. **(Ord. #3014; 06-01-71) (Sec. 39.08)**

## ARTICLE IV

## HOTEL AND MOTEL TAX

**43-4-1**     **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"** means a room within a structure offered to the public for rental on a daily basis and containing facilities for sleeping. **One (1) 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"** means any person having an ownership interest in or conducting the operation of a hotel or motel room or receiving the consideration for the rental of such hotel or motel room.

**"PERSON"** means 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 representative, 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.

**43-4-2**     **TAX IMPOSED.**

(A)           Beginning on **December 1, 1990**, 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 City of Belleville 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 works and lives in the same hotel or motel and received living accommodations as compensation for work performed. (**Ord. No. 6996; 06-18-07**)

(B)           The ultimate incidence of and liability for payment of the 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 "Renter".

(C)           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 the tax from the renter of the motel or hotel room and to pay over to the City Treasurer or any authorized representative of the City the tax under procedures prescribed by the City, or as otherwise provided in this Article.

(D) Every person required to collect the tax levied by this Article shall secure the tax from the renter at the time he collects the rental payment for the hotel or motel room. Upon the invoice receipt or other statement or memorandum of the rent given to the renter at the time of payment the amount due under the tax provided in this Article shall be stated separately.

**43-4-3** **BOOKS AND RECORDS.** The City Treasurer, or authorized representative, may enter the premises of any hotel or motel for inspection and examination of records in order to effectuate the proper administration of this Article, and to assure the enforcement of the collection of tax imposed. It shall be unlawful for any person to prevent, hinder, or interfere with the City Treasurer or authorized deputy or representative in the discharge of their duties in the performance of this Article. It shall be the duty of every owner to keep accurate and complete books and records to which the City Treasurer, or authorized representative, shall at all times have full access, which records shall include a daily sheet showing; (1) the number of hotel or motel rooms rented during the **twenty-four (24) hour** period, including multiple rentals of the same hotel or motel room where such shall occur, and (2) the actual hotel or motel tax receipts collected for the date in question.

**43-4-4** **TRANSMITTAL OF TAX REVENUE.**

(A) Commencing on **January 1, 1991**, the owner or owners of each hotel or motel within the City shall file tax returns showing tax receipts received with respect to each hotel and motel room during the previous month. The return shall be due on or before the last day of each succeeding calendar month and the return is to be filed; i.e., return for December tax receipts due on or before the last day of January.

(B) Commencing on **January 1, 1991**, the tax return and payment for such period shall be due on or before **January 31, 1991**. Thereafter reporting periods and taxes shall be paid in accordance with the provisions of this Article. At the time of filing the tax returns, the owner shall pay to the City Treasurer all taxes due for the period to which the tax return applies.

(C) If for any reason any tax is not paid when due, a penalty at the rate of **one and one-half percent (1 1/2%)** per **thirty (30) day** period, or portion thereof, from the date of delinquency shall be added and collected.

**43-4-5** **COLLECTION.** Whenever any person shall fail to pay any tax as herein provided, the Corporation Counsel shall, upon the request of the City Treasurer bring or cause to be brought an action to enforce the payment of the tax on behalf of the City in any Court of competent jurisdiction.

**43-4-6**      **PROCEEDS OF TAX AND FINES.** All proceeds resulting from the imposition of the tax under this Article, including penalties, shall be paid into the General Corporate Fund of the City.

**43-4-7**      **SUSPENSION OF LICENSES.** If the Mayor, after hearing held by or for him, shall find that any person has willfully avoided payment of the tax imposed by this Article, he may suspend or revoke all City licenses held by such tax-evader. The owner, manager, or operator of the hotel or motel shall have an opportunity to be heard at such hearing to be held not less than **five (5) days** after notice of the time and place of the hearing to be held, addressed to him at his last known place of business.

**43-4-8**      **PENALTIES.** Any person, firm or corporation found willfully guilty of failing to pay, collect, report and transmit the hotel or motel tax to the City Treasurer in accordance with the terms of this Article shall, except when otherwise specifically provided, upon conviction thereof be punished by a fine not to exceed **Five Hundred Dollars (\$500.00)** for each offense. A separate and distinct offense shall be regarded as committed each day upon which said person shall continue any such violation, or permit any such violation to exist after notification thereof.

**(Ord. No. 4775; 10-01-90)**

## ARTICLE V - ELECTRIC UTILITY TAX

**43-5-1**     **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 or used or consumed within the corporate limits of the City at the following rates, calculated on a monthly basis for each purchaser using an alternative rate promulgated pursuant to **65 ILCS Sec. 5/8-11-2(3)** (as modified by Public Act 90-561):

(1)	First 2,000 KWH	.5135 cents per KWH
(2)	Next 48,000 KWH	.3790 cents per KWH
(3)	Next 50,000 KWH	.3461 cents per KWH
(4)	Next 400,000 KWH	.3076 cents per KWH
(5)	Next 500,000 KWH	.2684 cents per KWH
(6)	Next 2,000,000 KWH	.2683 cents per KWH
(7)	Next 2,000,000 KWH	.2682 cents per KWH
(8)	Next 5,000,000 KWH	.2681 cents per KWH
(9)	Next 10,000,000 KWH	.2680 cents per KWH
(10)	Over 20,000,000 KWH	.2678 cents per KWH

The tax rates set forth in the preceding table will be used at least through **December 31, 2008** and do not exceed the revenue that could have been collected during 1997 using the rates enumerated in **65 ILCS Sec. 5/8-11-2** (as modified by Public Act 90-561).

(B)           Pursuant to **65 ILCS Sec. 5/8-11-2**, the rates set forth in **Section 43-5-1(A)** above shall be effective:

- (1) Upon approval by the Illinois Commerce Commission for residential customers; and
- (2) for non-residential customers:
  - (a) on the date of the first bill issued pursuant to **220 ILCS Sec. 5/16-10-4**, but in no case later than the last bill issued to that customer before **December 31, 2000** or
  - (b) the date of the first bill issued pursuant to **220 ILCS Sec. 5/16-104**, for non-residential customers.

(C)           Until such time as **Section 43-5-1(B)** above becomes applicable for non-residential customers pursuant to **Section 43-5-1(C)** above, persons engaged in the business of distributing, supplying, furnishing or selling electricity for use or consumption within corporate limits of the City, and not for resale, at a rate of **five percent (5%)** of the gross receipts therefrom for non-residential customers. (**Ord. No. 6409; 04-01-02**)

**43-5-2**     **EXCEPTIONS.** 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 privileges 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, water, or electricity, or engaged in the business of transmitting messages, or using or consuming electricity acquired in a purchase at retail, be subject to taxation under the provisions of the "**Municipal Retailers' Occupation Tax Act**" authorized by Section 8-11-1; 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 Municipality, whether privately or municipally owned or operated, or exercising the same privilege within the Municipality.

**43-5-3**     **ADDITIONAL TAXES.** Such tax shall be in addition to other taxes levied upon the taxpayer or its business.

**43-5-4**     **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 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 required to be collected pursuant to this Article and any such tax collected by a person delivering electricity shall constitute a debt owed to the Municipality by such person delivering the electricity. 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 to reimburse the person delivering electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the Municipality 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 Municipality in the manner prescribed by the Municipality. Persons delivering electricity who file returns pursuant to this Section shall, at the time of filing such return, pay the Municipality the amount of the tax collected pursuant to this Article.

**43-5-5**     **REPORTS TO MUNICIPALITY.** On or before the last day of each month, each taxpayer shall make a return to the City Treasurer for the preceding month stating:

- (A)           His name.
- (B)           His principal place of business.

(C) His gross receipts and/or kilowatt-hour usage 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.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the City of Belleville, 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.

**43-5-6 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 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 therefor shall be so credited.

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.

**43-5-7 PENALTY.** Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than **One Hundred Dollars (\$100.00)** nor more than **Two Hundred Dollars (\$200.00)** and, in addition, shall be liable in a civil action for the amount of tax due.

**(Ord. No. 5883; 05-18-98)**

## ARTICLE VI

## TAXPAYERS' RIGHTS CODE

**43-6-1** **TITLE.** This Article shall be known as, and may be cited as, the "Locally Imposed and Administered Tax Rights and Responsibility Code".

**43-6-2** **SCOPE.** The provisions of this Code shall apply to the City's procedures in connection with all of the City's locally imposed and administered taxes.

**43-6-3** **DEFINITIONS.** Certain words or terms herein shall have the meaning ascribed to them as follows:

(A) **Act.** "Act" means the "Local Government Taxpayers' Bill of Rights Act".

(B) **Corporate Authorities.** "Corporate Authorities" means the City's Mayor and City Council.

(C) **Locally Imposed and Administered Tax or "Tax".** "Locally Imposed and Administered Tax" or "Tax" means each tax imposed by the City that is collected or administered by the City not an agency or department of the State. It does not include any taxes imposed upon real property under the Property Tax Code or fees collected by the City other than infrastructure maintenance fees.

(D) **Local Tax Administrator.** "Local Tax Administrator", the City's Treasurer, is charged with the administration and collection of the locally imposed and administered taxes, including staff, employees or agents to the extent they are authorized by the local tax administrator to act in the local tax administrator's stead. The local tax administrator shall have the authority to implement the terms of this Code to give full effect to this Code. The exercise of such authority by the local tax administrator shall not be inconsistent with this Code and the Act.

(E) **City.** "City" means the City of Belleville, Illinois.

(F) **Notice.** "Notice" means each audit notice, collection notice or other similar notice or communication in connection with each of the City's locally imposed and administered taxes.

(G) **Tax Ordinance.** "Tax Ordinance" means each ordinance adopted by the City that imposes any locally imposed and administered tax.

(H) **Taxpayer.** "Taxpayer" means any person required to pay any locally imposed and administered tax and generally includes the person upon whom the legal incidence of such tax is placed and with respect to consumer taxes includes the business or entity required to collect and pay the locally imposed and administered tax to the City.

**43-6-4**      **NOTICES.** Unless otherwise provided, whenever notice is required to be given, the notice is to be in writing mailed not less than **seven (7) calendar days** prior to the day fixed for any applicable hearing, audit or other scheduled act of the local tax administrator. The notice shall be sent by the local tax administrator as follows:

- (A)            First class or express mail, or overnight mail, addressed to the person concerned at the persons' last known address, or
- (B)            Personal service or delivery.

**43-6-5**      **LATE PAYMENT.** Any notice, payment, remittance or other filing required to be made to the City pursuant to any tax ordinance shall be considered late unless it is:

- (A)            physically received by the City on or before the due date, or
- (B)            received in an envelope or other container displaying a valid, readable U.S. postmark dated on or before the due date, properly addressed to the City, with adequate postage prepaid.

**43-6-6**      **PAYMENT.** Any payment or remittance received for a tax period shall be applied in the following order:

- (A)            first to the tax due for the applicable period;
- (B)            second to the interest due for the applicable period; and
- (C)            third to the penalty for the applicable period.

**43-6-7**      **CERTAIN CREDITS AND REFUNDS.**

(A)            The City shall not refund or credit any taxes voluntarily paid without written protest at the time of payment in the event that a locally imposed and administered tax is declared invalidly enacted or unconstitutional by a court of competent jurisdiction. However, a taxpayer shall not be deemed to have paid the tax voluntarily if the taxpayer lacked knowledge of the facts upon which to protest the taxes at the time of payment or if the taxpayer paid the taxes under duress.

(B)            The statute of limitations on a claim for credit or refund shall be **four (4) years** after the end of the calendar year in which payment in error was made. The City shall not grant a credit or refund of locally imposed and administered taxes, interest, or penalties to a person who has not paid the amounts directly to the City.

(C)            The procedure for claiming a credit or refund of locally imposed and administered taxes, interest or penalties paid in error shall be as follows:

- (1)            The taxpayer shall submit to the local tax administrator in writing a claim for credit or refund together with a statement specifying:
  - (a)            the name of the locally imposed and administered tax subject to the claim;

- (b) the tax period for the locally imposed and administered tax subject to the claim;
  - (c) the date of the tax payment subject to the claim and the cancelled check or receipt for the payment;
  - (d) the taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and
  - (e) a request for either a refund or a credit in connection with the claim to be applied to the amount of tax, interest and penalties overpaid, and, as applicable, related interest on the amount overpaid; provided, however, that there shall be no refund and only a credit given in the event the taxpayer owes any monies to the City.
- (2) Within **ten (10) days** of the receipt by the local tax administrator of any claim for a refund or credit, the local tax administrator shall either:
- (a) grant the claim; or
  - (b) deny the claim, in whole or in part, together with a statement as to the reason for the denial or the partial grant and denial.
- (3) In the event the local tax administrator grants, in whole or in part, a claim for refund or credit, the amount of the grant for refund or credit shall bear interest at the rate of **five percent (5%)** per annum, based on a year of **three hundred sixty-five (365) days** and the number of days elapsed, from the date of the overpayment to the date of mailing of a refund check or the grant of a credit.

**43-6-8** **AUDIT PROCEDURE.** Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this Code.

- (A) Each notice of audit shall contain the following information:
- (1) the tax;
  - (2) the time period of the audit; and
  - (3) a brief description of the books and records to be made available for the auditor.
- (B) Any audit shall be conducted during normal business hours and if the date and time selected by the local tax administrator is not agreeable to the taxpayer, another date and time may be requested by the taxpayer within **thirty (30) days** after the originally designated audit and during normal business hours.
- (C) The taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted no more than **thirty (30) days** from the date the notice is given, unless the taxpayer and the local tax administrator agreed to some other convenient time. In the event taxpayer is unable to comply with the audit

on the date in question, the taxpayer may request another date within the **thirty (30) days**, approved in writing, that is convenient to the taxpayer and the local tax administrator.

(D) Every taxpayer shall keep accurate books and records of the taxpayer's business or activities, including original source documents and books of entry denoting the transactions which had given rise or may have given rise to any tax liability, exemption or deduction. All books shall be kept in the English Language and shall be subject to and available for inspection by the City.

(E) It is the duty and responsibility of every taxpayer to make available its books and records for inspection by the City. If the taxpayer or tax collector fails to provide the documents necessary for audit within the time provided, the local tax administrator may issue a tax determination and assessment based on the tax administrator's determination of the best estimate of the taxpayer's tax liability.

(F) If an audit determines there has been an overpayment of a locally imposed and administered tax as a result of the audit, written notice of the amount of overpayment shall be given to the taxpayer within **thirty (30) days** of the City's determination of the amount of overpayment.

(G) In the event a tax payment was submitted to the incorrect local governmental entity, the local tax administrator shall notify the local governmental entity imposing such tax.

#### **43-6-9 APPEAL.**

(A) The local tax administrator shall send written notice to a taxpayer upon the local tax administrator's issuance of a protestable notice of tax due, a bill, a claim denial, or a notice of claim reduction regarding any tax. The notice shall include the following information:

- (1) the reason for the assessment;
- (2) the amount of the tax liability proposed;
- (3) the procedure for appealing the assessment; and
- (4) the obligations of the City during the audit, appeal, refund and collection process.

(B) A taxpayer who receives written notice from the local tax administrator of a determination of tax due or assessment may file with the local tax administrator a written protest and petition for hearing, setting forth the basis of the taxpayer's request for a hearing. The written protest and petition for hearing must be filed with the local tax administrator within **forty-five (45) days** of receipt of the written notice of the tax determination and assessment.

(C) If a timely written notice and petition for hearing is filed, the local tax administrator shall fix the time and place for hearing and shall give written notice to the taxpayer. The hearing shall be scheduled for a date within **fourteen (14) days** of receipt of the written protest and petition for hearing, unless the taxpayer requests a later date convenient to all parties.

(D) If a written protest and petition for hearing is not filed within the **forty-five (45) day** period, the tax determination, audit or assessment shall become a final bill due and owing without further notice.

(E) Upon the showing of reasonable cause by the taxpayer and the full payment of the contested tax liability along with interest accrued as of the due date of the tax, the local tax administrator may reopen or extend the time for filing a written protest and petition for hearing. In no event shall the time for filing a written protest and petition for hearing be reopened or extended for more than **ninety (90) days** after the expiration of the **forty-five (45) day** period.

#### **43-6-10 HEARING.**

(A) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under **Section 43-6-9**, above, the local tax administrator shall conduct a hearing regarding any appeal.

(B) No continuances shall be granted except in cases where a continuance is absolutely necessary to protect the rights of the taxpayer. Lack of preparation shall not be grounds for a continuance. Any continuance granted shall not exceed **fourteen (14) days**.

(C) At the hearing the local tax administrator shall preside and shall hear testimony and accept any evidence relevant to the tax determination, audit or assessment. The strict rules of evidence applicable to judicial proceedings shall not apply.

(D) At the conclusion of the hearing, the local tax administrator shall make a written determination on the basis of the evidence presented at the hearing. The taxpayer or tax collector shall be provided with a copy of the written decision.

**43-6-11 INTEREST AND PENALTIES.** In the event a determination has been made that a tax is due and owing, through audit, assessment or other bill sent, the tax must be paid within the time frame otherwise indicated.

(A) **Interest.** The City hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax to be **nine percent (9%)** per annum, based on a year of **three hundred sixty-five (365) days** and the number of days elapsed.

(B) **Late Filing and Payment Penalties.** If a tax return is not filed within the time and manner provided by the controlling tax ordinance, a late filing penalty, of **five percent (5%)** of the amount of tax required to be shown as due on a return shall be imposed; and a late payment penalty of **five percent (5%)** of the tax due shall be imposed. If no return is filed within the time or manner provided by the controlling tax ordinance and prior to the City issuing a notice of tax delinquency or notice of tax liability, then a failure to file penalty shall be assessed equal to **twenty-five percent (25%)** of the total tax due for the applicable reporting period for which the return was required to be filed. A late filing or payment penalty shall not apply if a failure to file penalty is imposed by the controlling ordinance.

**43-6-12** **ABATEMENT.** The local tax administrator shall have the authority to waive or abate any late filing penalty, late payment penalty or failure to file penalty if the local tax administrator shall determine reasonable cause exists for delay or failure to make a filing.

**43-6-13** **INSTALLMENT CONTRACTS.** The City may enter into an installment contract with the taxpayer for the payment of taxes under the controlling tax ordinance. The local tax administrator may not cancel any installment contract so entered unless the taxpayer fails to pay any amount due and owing. Upon written notice by the local tax administrator that the payment is **thirty (30) days** delinquent, the taxpayer shall have **fourteen (14) working days** to cure any delinquency. If the taxpayer fails to cure the delinquency within the **fourteen (14) day** period or fails to demonstrate good faith in restructuring the installment contract with the local administrator, the installment contract shall be canceled without further notice to the taxpayer.

**43-6-14** **STATUTE OF LIMITATIONS.** The City, through the local tax administrator, shall review all tax returns in a prompt and timely manner and inform taxpayers of any amounts due and owing. The taxpayer shall have **forty-five (45) days** after receiving notice of the reviewed tax returns to make any request for refund or provide any tax still due and owing.

(A) No determination of tax due and owing may be issued more than **four (4) years** after the end of the calendar year for which the return for the applicable period was filed or for the calendar year in which the return for the applicable period was due, whichever occurs later.

(B) If any tax return is not filed or if during any **four (4) year** period for which a notice of tax determination or assessment may be issued by the City, the tax paid was less than **seventy-five percent (75%)** of the tax due, the statute of limitations shall be **six (6) years** maximum after the end of the calendar year in which return for the applicable period was due or end of the calendar year in which the return for the applicable period was filed.

(C) No statute of limitations shall not apply if a fraudulent tax return was filed by the taxpayer.

**43-6-15** **VOLUNTARY DISCLOSURE.** For any locally imposed and administered tax for which a taxpayer has not received a written notice of an audit, investigation, or assessment from the local tax administrator, a taxpayer is entitled to file an application with the local tax administrator for a voluntary disclosure of the tax due. A taxpayer filing a voluntary disclosure application must agree to pay the amount of tax due, along with interest of **one percent (1%)** per month, for all periods prior to the filing of the application but not more than **four (4) years** before the date of filing the application. A taxpayer filing a valid voluntary disclosure application may

not be liable for any additional tax, interest, or penalty for any period before the date the application was filed. However, if the taxpayer incorrectly determined and underpaid the amount of tax due, the taxpayer is liable for the underpaid tax along with applicable interest on the underpaid tax, unless the underpayment was the result of fraud on the part of the taxpayer, in which case the application shall be deemed invalid and void. The payment of tax and interest must be made by no later than **ninety (90) days** after the filing of the voluntary disclosure application or the date agreed to by the local tax administrator. However, any additional amounts owed as a result of an underpayment of tax and interest previously paid under this Section must be paid within **ninety (90) days** after a final determination and the exhaustion of all appeals of the additional amount owed or the date agreed to by the local tax administrator, whichever is longer.

**43-6-16**     **PUBLICATION OF TAX ORDINANCES.** Any locally administered tax ordinance shall be published via normal or standard publishing requirements. The posting of a tax ordinance on the Internet shall satisfy the publication requirements. Copies of all tax ordinances shall be made available to the public upon request at the City Clerk's office.

**43-6-17**     **INTERNAL REVIEW PROCEDURE.** The local tax administrator shall establish an internal review procedure regarding any liens filed against any taxpayers for unpaid taxes. Upon a determination by the local tax administrator that the lien is valid, the lien shall remain in full force and effect. If the lien is determined to be improper, the local tax administrator shall:

- (A)            timely remove the lien at the City's expense;
- (B)            correct the taxpayer's credit record; and
- (C)            correct any public disclosure of the improperly imposed lien.

**43-6-18**     **APPLICATION.** This Ordinance shall be liberally construed and administered to supplement all of the City's tax ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with this ordinance, this ordinance shall be controlling.

(Ord. No. 6254; 01-16-01)

## ARTICLE VII

## TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE

**43-7-1**      **DEFINITIONS.**

(A)      **"Gross Charges"** means the amount paid to a telecommunications retailer for the act or privilege of originating or receiving telecommunications within the City, and for all services rendered in connection therewith, 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 point within the City, charges for the channel mileage between each channel point within the City, and charges for that portion of the interstate interoffice channel provided within the City. However, "gross charges" shall not include:

- (1) any amounts added to a purchaser's bill because of a charge made under:
  - (a) the fee imposed by this Section,
  - (b) additional charges added to a purchaser's bill under Section 9-221 or 9-222 of the Public Utilities Act,
  - (c) amounts collected under Section 8-11-17 of the Illinois Municipal Code,
  - (d) the tax imposed by the Telecommunications Excise Tax Act,
  - (e) 911 surcharges, or
  - (f) the tax imposed by Section 4251 of the Internal Revenue Code;
- (2) charges for a sent collect telecommunication received outside the City;
- (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 City;
- (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; 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 other than a regulatory required profit for the corporation rendering such services;
- (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 telecommunications devices; or
- (9) charges for telecommunications and all services and equipment provided to the City.

(B) **"Public Right-of-Way"** means any municipal street, alley, water or public right-of-way dedicated or commonly used for utility purposes, including utility easements wherein the City has acquired the right and authority to locate or permit the location of utilities consistent with telecommunications facilities. "Public Right-of-Way" shall not include any real or personal City property that is not specifically described in the previous sentence and shall not include City buildings and other structures or improvements, regardless of whether they are situated in the public right-of-way.

(C) **"Retailer maintaining a place of business in this State"**, or any like term, means and includes any retailer having or maintaining within the State of Illinois, 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.

(D) **"Sale of telecommunications at retail"** means the transmitting, supplying, or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation

and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

(E) **"Service address"** means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received. If this is not a defined location, as in the case of wireless telecommunications, paging systems, maritime systems, air-to-ground systems, and the like, "service address" shall mean the location of the customer's primary use of the telecommunications equipment as defined by the location in Illinois where bills are sent.

(F) **"Telecommunications"** includes, but is not limited to, messages or information transmitted through use of local, toll, and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange services, private line services, specialized mobile radio services, 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. Unless the context clearly requires otherwise, "telecommunications" shall also include wireless telecommunications as hereinafter defined. "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 purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by him or her to the ultimate retail consumer who originates or terminates the end-to-end communications. Retailer access charges, right of access charges, charges for use of intercompany facilities, and all telecommunications resold in the subsequent provisions and used as a component of, or integrated into, end-to-end telecommunications service shall not be included in gross charges as sales for resale. "Telecommunications" shall not include the provision of cable service through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Section 521 and following) as now or hereafter amended or cable or other programming services subject to an open video system fee payable to the City through an open video system as defined in the Rules of the Federal Communications Commission (47 C.D.F. 76.1550 and following) as now or hereafter amended.

(G) **"Telecommunications provider"** means (1) any telecommunications retailer; and (2) any person that is not a telecommunications retailer that installs, owns, operates or controls equipment in the public right-of-way that is used or designed to be used to transmit telecommunications in any form.

(H) **"Telecommunications retailer" or "retailer" or "carrier"** means and includes every person engaged in the business of making sales of telecommunications at retail as defined in this Section. The City may, in its discretion, upon application, authorize the collection of the fee hereby imposed by any retailer not maintaining a place of business within this State, who, to the satisfaction of the City, furnishes adequate security to ensure collection and payment of the fee. When so authorized, it shall be the duty of such retailer to pay the fee upon all of the gross charges for telecommunications in the same manner and subject to the same requirements as a retailer maintaining a place of business in the City.

(I) **"Wireless telecommunications"** includes cellular mobile services, personal wireless services as defined in Section 704(C) of the Telecommunications Act of 1996 (Public Law No. 104-104), 42 U.S.C. §331(c)(7), as now or hereafter amended, including all commercial mobile radio services, and paging services.

**43-7-2 REGISTRATION OF TELECOMMUNICATIONS PROVIDERS.**

(A) Every telecommunications provider as defined by this Article shall register with the City within **thirty (30) days** after the effective date of this Article or becoming a telecommunications provider, whichever is later, on a form to be provided by the City, provided, however, that any telecommunications retailer that has filed a return pursuant to **Section 43-7-4(C)** of this Article shall be deemed to have registered in accordance with this Section.

(B) Every telecommunications provider who has registered with the City pursuant to **Section 43-7-2(A)** has an affirmative duty to submit an amended registration form or current return as required by **Section 43-7-4(C)**, as the case may be, to the City within **thirty (30) days** from the date of the occurrence of any changes in the information provided by the telecommunications provider in the registration form or most recent return on file with the City.

**43-7-3 MUNICIPAL TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE.**

(A) A City telecommunications infrastructure maintenance fee is hereby imposed upon all telecommunications retailers in the amount of **one percent (1%)** of all gross charges charged by the telecommunications retailers to service addresses within the City for telecommunications originating or received in the City.

(B) Upon the effective date of the infrastructure maintenance fee authorized in this Article, the City infrastructure maintenance fee authorized hereunder shall be the only fee or compensation for the use of all public rights-of-way within the City by telecommunications retailers. Imposition of the infrastructure maintenance fee provided under this Article does not, however, serve as a limitation on the levying of any taxes or imposition of any fees otherwise authorized by law.

(C) The City telecommunications infrastructure maintenance fee authorized by this Section shall be collected, enforced, and administered as set forth in **Section 43-7-4** of this Article.

**43-7-4 COLLECTION, ENFORCEMENT, AND ADMINISTRATION OF TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEES.**

(A) A telecommunications retailer shall charge to and collect from each customer an additional charge in an amount equal to the City infrastructure maintenance fee attributable to that customer's service address.

(B) Unless otherwise approved by the City the infrastructure maintenance fee shall be remitted by the telecommunications retailer to the City not

later than the last day of the month subsequent to the month in which a bill is issued to the customer; provided, however, that the telecommunications retailer may retain an amount not to exceed **two percent (2%)** of the City infrastructure maintenance fee collected by it to reimburse itself for expenses incurred in accounting for and remitting the fee.

(C) Remittance of the municipal infrastructure fee to the City shall be accompanied by a return, in a form to be prescribed by the City, which shall contain such information as the City may reasonably require.

(D) Any infrastructure maintenance fee required to be collected pursuant to this Article and any such infrastructure maintenance fee collected by such telecommunications retailer shall constitute a debt owed by the telecommunications retailer to the City. The charge imposed under **Section 43-7-4(A)** by the telecommunications retailer pursuant to this Article shall constitute a debt of the purchaser to the telecommunications retailer who provides such services until paid and, if unpaid, is recoverable at law in the same manner as the original charge for such services.

(E) If it shall appear that an amount of infrastructure maintenance fee has been paid that was not due under the provisions of this Article, whether as a result of a mistake of fact or an error of law, then such amount shall be credited against any infrastructure maintenance fee due, or to become due, under this Article, from the telecommunications retailer who made the erroneous payment; provided, however, the City may request, and telecommunications retailer shall provide, written substantiation for such credit. However, no claim for such credit may be made more than **three (3) years** after the date of the erroneous payment unless, (1) the credit is used only to offset a claim of underpayment made by the City within the applicable statutory period of limitations, and (2) the credit derives from an overpayment made by the same telecommunications retailer during the applicable statutory period of limitations.

(F) Amounts paid under this Article by telecommunications retailers shall not be included in the tax base under any of the following acts as described immediately below:

- (1) **"gross charges"** for purposes of the Telecommunications Excise Tax Act;
- (2) **"gross receipts"** for purposes of the municipal utility tax as prescribed in Section 8-11-2 of the Illinois Municipal Code;
- (3) **"gross charges"** for purposes of the municipal telecommunications tax as prescribed in Section 8-11-17 of the Illinois Municipal Code;
- (4) **"gross revenue"** for purposes of the tax on annual gross revenue of public utilities in Section 2-202 of the Public Utilities Act.

(G) The City shall have the right, in its discretion, to audit the books and records of all telecommunications retailers subject to this Article to determine whether the telecommunications retailer has properly accounted to the City for the City infrastructure maintenance fee. Any underpayment of the amount of the City

infrastructure maintenance fee due to the City by the telecommunications retailer shall be paid to the City plus **six percent (6%)** of the total amount of the underpayment determined in an audit, plus any costs incurred by the City in conducting the audit, in an amount not to exceed **six percent (6%)** of the total amount of the underpayment determined in an audit. Said sum shall be paid to the City within **twenty-one (21) days** after the date of issuance of an invoice for same.

(H) The City or his or her designee, may promulgate such further or additional regulations concerning the administration and enforcement of this Article consistent with its provisions, as may be required from time to time and shall notify all telecommunications retailers that are registered pursuant to **Section 43-7-2** of this Article of such regulations.

**43-7-5**      **COMPLIANCE WITH OTHER LAWS.** Nothing in this Article shall excuse any person or entity from obligations imposed under any law, including but not limited to:

- (A) generally applicable taxes; and
- (B) standards for construction on, over, under, or within, use of or repair of the public rights-of-way, including standards relating to free standing towers and other structures upon the public rights-of-way, as provided; and
- (C) Any liability imposed for the failure to comply with such generally applicable taxes or standards governing construction on, over, under, or within, use of or repair of the public rights-of-way; and
- (D) Compliance with any ordinance or provision of this Code concerning uses or structures not located on, over, or within the right-of-way.

**43-7-6**      **EXISTING FRANCHISES AND LICENSES.** Any franchise, license, or similar agreements between telecommunications retailers and the City entered into before the effective date of this Article regarding the use of public rights-of-way shall remain valid according to and for their stated terms except for any fees, charges or other compensation to the extent waived.

**43-7-7**      **PENALTIES.** Any telecommunications provider who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Article shall be subject to fine in accordance with the general penalty provisions of the City Municipal Code.

**43-7-8**      **ENFORCEMENT.** Nothing in this Article shall be construed as limiting any additional or further remedies that the City may have for enforcement of this Article.

**43-7-9**      **SEVERABILITY.** If any section, subsection, sentence, clause, phrase or portion of this Article 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 portions hereof.

**43-7-10**     **CONFLICT.** This Article supercedes all Articles or parts of Articles adopted prior hereto which are in conflict herewith, to the extent of such conflict.

**43-7-11**     **WAIVER AND FEE IMPLEMENTATION.**

(A)           The City hereby waives all fees, charges, and other compensation that may accrue, after the effective date of the waiver, to the City by a telecommunications retailer pursuant to any existing City franchise, license, or similar agreement with a telecommunications retailer during the time the City imposes the Telecommunications Infrastructure Maintenance Fee. This waiver shall only be effective during the time the Infrastructure Maintenance Fee provided for in this Article is subject to being lawfully imposed on the telecommunications retailer and collected by the telecommunications retailer from the customer.

(B)           The City Clerk shall send a notice of the waiver by certified mail/return receipt requested to each telecommunications retailer with whom the City has a franchise.

(C)           The City infrastructure maintenance fee provided for in this Article shall become effective and imposed on the **first (1<sup>st</sup>) day** of the month not less than **ninety (90) days** after the City provides written notice by certified mail to each telecommunications retailer with whom the City has an existing franchise, license, or similar agreement that the City waives all compensation under such existing franchise, license, or similar agreement during such time as the fee is subject to being lawfully imposed and collected by the retailer and remitted to the City. The infrastructure maintenance fee shall apply to gross charges billed on or after the effective date as established in the preceding sentence.

**(Ord. No. 6091; 03-20-00)**

## ARTICLE VIII

## F.S.P. SALES TAX

**43-8-1**     **TAX IMPOSED ON TANGIBLE PERSONAL PROPERTY.** A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this State's government, at retail within the boundaries of the Business District at the rate of **one percent (1%)** of the gross receipts from such sales made in the course of such business while this Article is in effect; and a tax is hereby imposed upon all persons engaged within the boundaries of the Business District in the business of making sales of service, at the rate of **one percent (1%)** of the selling price of all tangible personal property transferred by such serviceman as an incident to a sale of service. This "Business District Retailers' Occupation Tax" and this "Business District Service Occupation Tax" shall not be applicable to the sales of food for human consumption which 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, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes and needles used by diabetics.

**43-8-2**     **TAX ON HOTEL ROOMS.** A tax is hereby imposed upon all persons engaged in the business of renting, leasing, or letting rooms in a hotel, as defined in the Hotel Operators' Occupation Tax Act, at a rate of **one percent (1%)** of the gross rental receipts from the renting, leasing, or letting of hotel rooms within the Business District, excluding, however, from gross rental receipts the proceeds of renting, leasing, or letting to permanent residents of a hotel, as defined in the Hotel Operators' Occupation Tax Act, and proceeds from the tax imposed under subsection (c) of Section 13 of the Metropolitan Pier and Exposition Authority Act.

**43-8-3**     **PURPOSE OF TAX.** The imposition of such taxes shall be for the planning, execution and implementation of the Business District Plan and the revenues from such taxes shall be applied to payment of the authorized expenditures of the Business District or to payment of bonds, notes or other obligations (the "Obligations") issued to fund such expenditures of the Business District. The taxes shall be in full force and effect until all Obligations of the Business District have been paid in accordance with the Business District Plan.

The imposition of these Business District taxes is in accordance with the provisions of subsections (b), (c) and (d), respectively, of Section 11-74.3-6 of the Illinois Compiled Statutes (**65 ILCS 5/11-74.3-6**).

**43-8-4**      **COLLECTION AND ENFORCEMENT.** The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department of Revenue of the State of Illinois. The Department of Revenue shall have full power to administer and enforce the provisions of this Article.

**43-8-5**      **FILING.** The City Clerk is hereby directed to file a certified copy of this Article with the Department of Revenue on or before the **first (1<sup>st</sup>) day of April, 2007.**

**43-8-6**      **EFFECTIVE.** This Article shall take effect on the **first (1<sup>st</sup>) day of July** next following the adoption and filing of this Article with the Illinois Department of Revenue.

**43-8-7**      **SEVERABILITY.** It is hereby declared to be the intention of the City Council that each and every part, section and subsection of this Article shall be separate and severable from each and every other part, section and subsection hereof and that the City Council intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part, section or subsection of this Article shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

**43-8-8**      **STATE STATUTE COMPLIANCE.** This Article shall be governed exclusively by and construed in accordance with the applicable laws of the State of Illinois.

**43-8-9**      **DELIVERY OF OFFICIAL PAPERS.** The Mayor of the City is hereby authorized and directed to execute and deliver for and on behalf of the City, and the City Clerk is hereby authorized and directed where appropriate to attest, all certificates, documents, agreements or other instruments, and the Mayor of the City or his designated representative is hereby authorized and directed to take any and all actions, as may be necessary, desirable, convenient or proper to carry out and comply with the provisions of all agreements or contracts, necessary or reasonably incidental to the implementation of this Article.

(Ord. No. 6926; 11-06-06)