

Chapter 32  
**OCCUPATION and OTHER TAXES**

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**32.01 MUNICIPAL RETAILERS TAX**

A. Required Tax: A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property at retail in this Village at the rate of 1 percent of the gross receipts from such sales made in the course of such business while this Section is in effect, in accordance with the provisions of 65 ILCS 5/8-121-1, as amended.

B. Report to State: Every such person engaged in such business in the Village shall file on or before the 15<sup>th</sup> day of each calendar month, the report to the Illinois Department of Revenue as required by Section 3 of "An Act in relation to a tax upon persons engaged in the business of selling tangible personal property to purchasers for use or consumption," approved June 28, 1933, as amended.

C. Payment to State: At the time such report is filed, there shall be paid to the Illinois Department the amount of tax hereby imposed on account of the receipts from sales of tangible personal property during the preceding month, together with any penalties then due, if any, and such other information as may be required by Section 3 as aforesaid.

**32.02 MUNICIPAL SERVICE OCCUPATION TAX**

A. Required Tax: A tax is hereby imposed upon all persons engaged in this municipality in the business of making sales of service at the rate of 1 percent of the cost price of all tangible personal property transferred by said servicemen either in the form of tangible personal property or in the form of real estate as an incident to a sale of service, in accordance with the provisions of 65 ILCS 5/8-11-5, as amended.

B. Report to State: Every supplier or serviceman required to account for Municipal Service Occupation Tax for the benefit of this Village shall file, on or before the last day of each calendar month, the report to the Illinois Department of Revenue as required by Section 9 of "An Act to impose a tax upon persons engaged in the business of making sales of Service" approved July 10, 1961, as amended.

C. Payment to State: At the time such report is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed together with any penalties then due and such other information as may be required.

### 32.03 MUNICIPAL USE TAX

A. Required Tax: A tax is hereby imposed upon the privilege of using, in the Village, any item of tangible personal property which is purchased outside Illinois at retail from a retailer, and which is titled or registered with an agency of this State's government, at a rate not to exceed 1 percent of the selling price of such tangible personal property, as "selling price" is defined in the *Use Tax Act*, approved July 14, 1955, as amended.

B. Report to State: Such tax shall be collected from persons whose Illinois address for titling or registration purposes is given as being in the Village. Such tax shall be collected by the Illinois Department of Revenue.

### 32.04 MUNICIPAL UTILITY TAX *Amended, 2006-O-31, 2006-O-08, 98-O-26, 96-O-59*

A. Definitions: In addition to the definitions in Appendix A, terms, whether capitalized or not, used in this Section mean as follows:

**Gross Receipts**: For purposes of this Section, the consideration received for 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 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. Gross receipts shall not include receipts received from the Village for any of the utility products or services mentioned above to the Village.

**Person**: For purposes of this Section, any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, municipal corporation or political subdivision of this State, or a receiver, trustee, conservator or other representative appointed by order of any court.

**Person maintaining a place of business in this State**: For purposes of this Section, 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.

**Public utility**: A public utility as defined in Section 3-105 of the Public Utilities Act.

**Public Utilities Act**: The Public Utilities Act, as amended (220 ILCS 5/1-101 *et seq.*).

**Purchase at retail**: For purposes of this Section, any acquisition of electricity by a purchaser for purposes of use or consumption, and not for resale, but shall not include the use of electricity by a public utility, as defined in 65 ILCS 5/8-11-2, directly in the generation, production, transmission, delivery or sale of electricity.

**Purchaser:** For purposes of this Section, any person who uses or consumes, within the corporate limits of the Village, electricity acquired in a purchase at retail (other than an exempt purchaser).

**Retail purchaser:** Any person who purchases gas in a sale at retail.

**Sale at retail:** Any sale of gas by a retailer to a person for use or consumption, and not for resale. For this purpose, the term “retailer” means any person engaged in the business of distribution, supplying or furnishing or selling gas.

**Tax collector:** For purposes of this Section, the person delivering electricity to the purchaser.

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

B. Message Tax: A tax, based on the gross receipts actually paid to the taxpayer for services billed, is imposed on all persons engaged in the following occupations or privileges: persons engaged in the business of transmitting messages by means of electricity, fiber optics or radio magnetic waves at a rate of 4 percent of the gross receipts from such business originating within the corporate limits of the Village.

C. Gas Tax:

1. A tax is imposed on the privilege of using or consuming gas in the Village that is purchased in a sale at retail at the rate of \$0.0103 cents per therm.
2. The ultimate incidence of and liability for payment of the tax is on the retail purchaser and nothing in this Section shall be construed to impose a tax on the occupation of distributing, supplying, furnishing, selling or transporting gas.
3. The retailer purchaser shall pay the tax, measured by therms of gas delivered to the retail purchaser’s premises:
  - a. To the public utility designated to collect the tax pursuant to this Section on or before the payment due date of the public utility’s bill first reflecting the tax; or
  - b. Directly to the Village on or before the 15<sup>th</sup> day of the second month following the month in which the gas is delivered to the retail purchaser if no public utility has been designated to collect the tax pursuant to this Section or if the gas is delivered by a person other than a public utility so designated.

4. A purchaser who purchases gas for resale and therefore does not pay the tax imposed by this Section with respect to the use or consumption of the gas, but who later uses or consumes part or all of the gas, shall pay the tax directly to the Village Treasurer on or before the 15<sup>th</sup> day of the second month following the month in which the gas is used or consumed.
5. The tax shall apply to gas for which the delivery to the retail purchaser is billed by a public utility on or after July 1, 2006.

D. Electric Tax:

1. Tax Imposed Upon End Users of Electricity: Pursuant to the Illinois Municipal Code (65 ILCS 5/8-11-2) and any other applicable authority, a tax is hereby 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, as calculated on a monthly basis for each purchaser, except the Village:
  - a. For the first 2,000 Kilowatt-hours ("Kwh") used or consumed in a month, .459 cents per Kwh;
  - b. For the next 48,000 Kwh used or consumed in a month, .301 cents per Kwh;
  - c. For the next 50,000 Kwh used or consumed in a month, .271 cents per Kwh;
  - d. For the next 400,000 Kwh used or consumed in a month, .264 cents per Kwh;
  - e. For the next 500,000 Kwh used or consumed in a month, .256 cents per Kwh;
  - f. For the next 2,000,000 Kwh used or consumed in a month, .241 cents per Kwh;
  - g. For the next 2,000,000 Kwh used or consumed in a month, .237 cents per Kwh;
  - h. For the next 5,000,000 Kwh used or consumed in a month, .233 cents per Kwh;
  - i. For the next 10,000,000 Kwh used or consumed in a month, .230 cents per Kwh; and
  - j. For all electricity consumed or used in excess of 20,000,000 Kwh in a month, .226 cents per Kwh.

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

2. Effective Date: The tax rates as set forth in Section 32.04-D shall become effective as follows:
  - a. For all residential customers within the corporate limits of the Village, August 1, 1998.
  - b. For nonresidential customers, upon the earlier of the date of the first bill issued to each non-residential customer pursuant to 220 ILCS 5/16-104 or the last bill issued prior to December 31, 2000.
3. 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.
4. Utility Tax: Pursuant to 65 ILCS 5/8-11-2, the tax provided in former Section 32.04-A-3 shall remain in full force and effect as follows:
  - a. For gross receipts, as defined herein, attributable to residential customers, until August 1, 1998; and
  - b. For gross receipts attributable to nonresidential customers until the earlier of the last bill issued prior to December 31, 2000, or the date of the first bill issued to each nonresidential customer pursuant to 220 ILCS 5/16-104.
5. Collection: The tax imposed by this Section 32.04-D 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 32.04-D 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 3 percent of the tax assessed pursuant to this Section 32.04-D 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 32.04-D shall, at the time of filing such return, pay the Village the amount of the tax collected pursuant to this Section 32.04-D.

6. Books and Records:

- a. Every person delivering electricity who is required to collect a tax pursuant to Section 32.04-D-5 shall keep accurate books and records of all transactions which may affect the tax provided for in Section 32.04-D-1, including, but not limited to, records of the number of Kilowatt-hours (Kwh) 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 32.04-D 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 this Section 32.04-D, and the total gross receipts received by the electricity deliverer for each month, not including the tax imposed by this Section 32.04-D.
- b. Every person delivering electricity who is required to collect a tax as set forth in Section 32.04-D-5 shall provide to the Village, within 7 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.

7. Tax Remittance and Return:

- a. Every person collecting a tax pursuant to this Section 32.04-D 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 32.04-D5.
- b. Each person who is required to pay a tax pursuant to this Section 32.04-D and who has not paid said tax to the electricity deliverer as provided for herein, shall file a return with the Village as provided in Section 32.04-I2 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.

8. Reinstatement of Utility Tax on Electricity: In the event Public Act 90-561 is declared unconstitutional, or if this Section 32.04-D is found unconstitu-

tional or voided by any court of competent jurisdiction, the provisions of the former Section 32.04-A3 shall remain in effect in all respects as if it had never been repealed, and any amounts paid to the Village by any person delivering electricity pursuant to this Section 32.04-D shall be deemed to have been paid pursuant to Section 32.04-A3 as it existed prior to the passage of this amendment to this Section.

E. Exceptions: None of the taxes authorized by this Section may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, or selling or transmitting gas, 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 this Section for those transactions that are or may become subject to taxation under the provisions of the Municipal Retailers' Occupation Tax Act authorized by 65 ILCS 5/8-11-1; nor shall any tax authorized by this Section be imposed upon any persons engaged in a business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in businesses of the same class in the municipality, whether privately or municipally owned or operated, or exercising the same privilege within the municipality.

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

G. Disposition of Funds: All funds paid to the Village under the terms of this Section shall be used or held to be used for municipal street repairs and improvements unless it is determined by the Village Board, as part of the annual budget approval process, that a portion of said funds are required for other public infrastructure improvements or repairs.

H. Credit for Overpayment: If an amount of tax is paid which is 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 person who made the erroneous payment; provided that no amounts erroneously paid more than 1 year prior to the filing of a claim therefore shall be so credited.

No person shall be entitled to a credit for a tax imposed under this Section unless the person files a claim for credit within 1 year after the date on which the tax was paid or remitted. All such claims shall first be filed with the Village.

I. Statement:

1. On or before the last day of each month each taxpayer subject to Sections 34.04-B and 34.04-C shall make a return to the Treasurer for the preceding month stating:

a. His name;

- b. His principal place of business;
- c. His gross receipts during that month upon the basis of which 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 Village Treasurer the amount of tax herein imposed; provided that in connection with any return, the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed), with prompt adjustments of later payments based upon any difference between such billings and the taxable gross receipts.

- 2. On or before the last day of each month, each taxpayer who has not paid the tax imposed by this Section 32.04-D to a person delivering electricity as set forth in this Section 32.04-D and who is not otherwise exempt from paying such tax, shall make a return to the Village for the preceding month stating:
  - a. The name of the owner of the property where the electricity is consumed or the name of the taxpayer if different.
  - b. The taxpayer's principal place of business or residence.
  - c. The number of kilowatt-hours (Kwh) of electricity used during the month.
  - d. The amount of the tax.
  - e. Such other information as the Village may require.

J. Fines, Penalties: Any taxpayer who fails to make a return, or who makes a fraudulent return, or who violates any other provision of this Section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000, plus all costs of prosecution including, but not limited to, filing fees, witness fees, attorney fees and court costs. For purposes of this Section 32.04-J, each day upon which a violation occurs or continues to occur shall be deemed a separate and distinct violation. This penalty is in addition to any civil action which may be available to the Village or electric deliverer to collect upon the amount of tax due.

### 32.05 **UTILITY TAX RELIEF PROGRAM ("Program")** *Amended, 98-O-56*

A. Purpose: The purpose of this Program is to provide grants to senior citizens, disabled persons and other residents with limited income of the Village to relieve those citizens from the burdens of municipal utility taxes against their restricted earning power.

B. Definitions: The following definitions shall be used in this Program, unless the context requires otherwise:

1. **Claimant**: an individual who has filed a claim under the Program.
2. **Household**: a claimant or a claimant and his spouse living together in the same residence.
3. **Household Income**: the combined income of the members of the household.
4. **Income**: adjusted gross income, properly reportable for federal income tax purposes under the provisions of the Internal Revenue Code, modified by adding thereto the sum of the following amounts to the extent deducted or excluded from gross income in the computation of adjusted gross income:
  - a. An amount equal to all amounts paid or accrued as interest or dividends during the taxable year;
  - b. An amount equal to all amounts received during the taxable year as an annuity under an annuity, endowment or life insurance contract or under any other contract or agreement;
  - c. An amount equal to the amount of benefits paid under the Federal Social Security Act during the taxable year;
  - d. An amount equal to the amount of benefits paid under the Railroad Retirement Act during the taxable year; and
  - e. An amount equal to the total amount of cash public assistance payments received from any governmental agency during the taxable year.
5. **Internal Revenue Code**: The United States Internal Revenue Code of 1954 or any successor law or laws relating to federal income taxes in effect for the year.
6. **Municipal Utility Tax**: The tax imposed and passed onto the consumers of utilities pursuant to the Illinois Municipal Code (65 ILCS 5/8-11-2).
7. **Program**: The Algonquin Utility Tax Relief Program.
8. **Residence**: The principal dwelling place occupied in this Village by a household and so much of the surrounding land as is reasonably necessary for use of the dwelling as a home, and includes rental property, single family dwellings and units in multi-family, multi-dwelling or multi-purpose buildings. If the assessor has established a specific legal description for a portion of property constituting the residence, then that portion of the property shall

be deemed “residence” for the purposes of this Program.

9. **Taxable Year:** The calendar year during which municipal utility taxes became due and payable by the consumer of the utility.
10. **Village:** the Village of Algonquin, Kane and McHenry Counties, Illinois.

C. Amount of Grant: Any individual whose annual household income is less than \$16,000 and whose household is liable for payment of municipal utility taxes and is domiciled in this Village at the time he files his claim is entitled to claim a grant under this Program.

1. **Limitation:** The amount of grant which a claimant is entitled to claim for relief from municipal utility taxes which were paid or payable during the last preceding year are as follows:

<u>Income</u>	<u>Amount of Grant</u>
under \$4,000	100% of municipal utility taxes
\$4,001 - \$8,000	the greater of \$25 or 75% of municipal utility taxes
\$8,001 - \$12,000	the greater of \$25 or 50% of municipal utility taxes
\$12,001 - \$16,000	the greater of \$25 or 25% of municipal utility taxes

2. **More Than 1 Residence:** If a claimant has occupied more than 1 residence in the taxable year, he may claim only 1 residence for any part of a month.

D. Procedure: Claims for the taxable year must be filed between January 1 and March 1 of the following year on forms prescribed by the Village.

1. **Claim is Personal:** The right to file a claim under this Program shall be personal to the claimant and shall not survive his death, but such right may be exercised on behalf of a claimant by his legal guardian or attorney-in-fact. If a claimant dies after having filed a timely claim, the amount thereof shall be disbursed to his surviving spouse or, if no spouse survives, to this surviving dependent minor children in equal parts, provided the spouse of the child, as the case may be, resided with the claimant at the time he filed the claim. If at the time of disbursement neither the claimant nor his spouse is surviving, and no dependent minor children of the claimant are surviving, the amount of the claim shall escheat to the Village.
2. **One Claim per Household:** Only 1 member of a household may file a claim under this Program in any calendar year; where both members of a household are otherwise entitled to claim a grant under this program, they must agree as to which of them will file a claim for that year.

E. Administration: Upon receipt of a timely filed claim, the Manager shall determine whether the claimant is a person entitled to a grant under this Program and the amount of grant to

which he is entitled under this Program. The Village may require the claimant to furnish reasonable proof of the statements of domicile, household income, municipal utility taxes paid and other matters on which entitlement is based, and may withhold payment of a grant until such additional proof is furnished.

F. Fraudulent Claims: The Manager shall deny claims which have been fraudulently prepared or when he finds that the claimant has acquired title to his residence or has paid utilities for his residence primarily for the purpose of receiving a grant under this Program.

G. Payment and Denial of Claims: The Manager shall order the payment from the Village budget made for that purpose of grants to claimants under this Program in the amounts to which the Manager has determined they are entitled. If a claim is denied, the Manager shall cause written notice of that denial and the reasons for that denial to be sent to the claimant.

1. Right to Appeals: Any claimant aggrieved by the action of the Manager under this Program, may request in writing that the Manager reconsider his prior determination, setting out the facts on which his request is based. The Manager shall consider the request and either modify or affirm his prior determination.
2. Village Board Review: The decision of the Manager to affirm his prior determination, or the failure of the Manager to act on a request for reconsideration within 60 days, may be appealed to the Village Board for review. The Village Board shall consider the appeal and either modify or affirm the Manager's prior recommendation.

H. Records: Every claimant of a grant under this Program shall keep such records, render such statements, file such forms and comply with such rules and regulations as the Village may from time to time prescribe.

I. Confidentiality: All information received by the Village from claims filed under this program, or from any investigation conducted under the provisions of this Program, shall be confidential, except for official purposes within the Village pursuant to the Freedom of Information Act (5 ILCS 140/1 *et. seq.*).

Nothing contained herein shall prevent the Village from publishing or making available reasonable statistics concerning the operation of the grant program contained in this Program wherein the contents of claims are grouped into aggregates in such a way that information contained in any individual claim shall not be disclosed.

J. Penalty: Any person who files a fraudulent claim for a grant under this Program, or who for compensation prepares a claim for a grant and knowingly enters false information on a claim form for any claimant under this Program, or who fraudulently files multiple claim forms, upon a finding of guilty, shall be imposed a fine of not less than \$100, nor more than \$1,000.

In addition, a person convicted of such fraud shall be permanently barred from the Program of utility tax relief established by this Village. The Village may recover from the claimant any amount paid under this Program on account of an erroneous or fraudulent claim, together with 6 percent interest per year. A prosecution for any violation under this Program may be commenced at

any time within 3 years of the commission of that violation.

### 32.06 HOTEL/MOTEL TAX 98-0-49

A. Definitions: In addition to the definitions found in Appendix A, terms, whether capitalized or not, used in this Section shall have the following meanings:

**Hotel:** Any building or buildings in which the public may, for a consideration, obtain living quarters, sleeping or housekeeping accommodations. The term includes inns, motels, tourist homes or courts, lodging houses, rooming houses and apartment houses with more than 5 guest units for rent.

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

**Occupancy:** The use or possession, or a right to the use or possession, of any room or 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 occupied or has the right to occupy any room or rooms, regardless of 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 and property or services of any kind or nature.

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

B. Tax: A tax is imposed upon persons engaged in the business of renting, leasing or letting rooms in a hotel at the rate of 5 percent 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 operator of every hotel to collect said tax from the guest or lodger, and to pay over to the Manager said tax on a quarterly basis as provided herein.
2. Every person required to collect the tax levied by this Section 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 taxes shall be issued to the user, lessee or tenant.

D. Administration and Enforcement:

1. Inspections: The Manager may enter the premises of any hotel for inspection and examination of books and records for the proper administration of this Section and enforcement of the collection of the tax imposed. It shall be unlawful for any person to prevent, hinder or interfere with the Manager in enforcing this Section.
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 Manager 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 room when such occurs; and
  - b. The actual hotel room tax receipts collected for the date in question.
3. Quarterly Tax Returns: Every person operating a hotel shall file tax returns showing tax receipts received with respect to each hotel during each 3-month period ending on March 31, June 30, September 30 and December 31 of each year, within 30 days after the end of the respective date, upon forms prescribed by rules and regulations of the Manager. At the time of filing said tax returns, the operator shall pay to the Manager all taxes due for the period to 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.

E. Failure to Pay Tax.:

1. 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 1 percent 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 of the tax and interest due shall be assessed and collected against any hotel owner, manager or operator.
2. Suit for Collection: Whenever any person fails to pay any tax required herein, the Village Attorney shall, upon the request of the Manager, bring or cause to be brought an action to enforce the payment of said tax in behalf of the Village in any court of competent jurisdiction. Any legal fees incurred by the Village in the cost of collection shall be paid by the operator.
3. Revocation of Village Licenses: If the President, after conducting a hearing, finds that any person has willfully avoided payment of the tax imposed herein, he may suspend or revoke all Village licenses held by the hotel. The operator shall have an opportunity to be heard at a hearing held not less than 5 days after notice of the time and place of the hearing, with said notice addressed to the operator at the last known place of business, has been deliv-

ered to the operator.

F. Penalty: Any person found guilty of violating any provision of this Section shall, upon conviction, be fined not less than \$100 nor more than \$1,000 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.

### 32.07 LOCAL GOVERNMENT TAXPAYERS' BILL OF RIGHTS 00-0-54

A. Definitions: In addition to those terms defined in Appendix A, certain words or terms herein, whether capitalized or not, shall have the meaning ascribed to them as follows:

**Act**: The Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.*

**Locally imposed and administered tax**: Each tax imposed by the Village that is collected or administered by the Village 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 Village other than infrastructure maintenance fees.

**Local tax administrator**: The Manager, who 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 Section to give full effect to this Section. The exercise of such authority by the local tax administrator shall not be inconsistent with this Section and the Act.

**Notice**: Each audit notice, collection notice or other similar notice or communication in connection with each of the Village's locally imposed and administered taxes.

**Tax Ordinance**: Each ordinance passed by the Village that imposes any locally imposed and administered tax.

**Taxpayer**: 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 Village.

B. Notices: Unless otherwise provided, whenever notice is required to be given, the notice is to be in writing mailed not less than 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:

1. First class, express mail or overnight mail, addressed to the persons concerned at the persons' last known address, or
2. Personal service or delivery.

C. Late payment: Any notice, payment, remittance or other filing required to be made to the Village pursuant to any tax ordinance shall be considered late unless it is (a) physically re-

ceived by the Village on or before the due date, or (b) received in an envelope or other container displaying a valid, readable U.S. Postal Service postmark dated on or before the due date, properly addressed to the Village, with adequate postage prepaid.

D. Payment: Any payment or remittance received for a tax period shall be applied in the following order: (1) first to the tax due for the applicable period; (2) second to the interest due for the applicable period; and (3) third to the penalty for the applicable period.

E. Certain Credits and Refunds:

1. The Village 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.
2. The statute of limitations on a claim for credit or refund shall be 2 years after the end of the calendar year in which payment in error was made. The Village 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 Village.
3. The procedure for claiming a credit or refund of locally imposed and administered taxes, interest or penalties paid in error shall be as follows:
  - a. The taxpayer shall submit to the local tax administrator in writing a claim for credit or refund together with a statement specifying:
    - (i) the name of the locally imposed and administered tax subject to the claim;
    - (ii) the tax period for the locally imposed and administered tax subject to the claim;
    - (iii) the date of the tax payment subject to the claim and the canceled check or receipt for the payment;
    - (iv) the taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and
    - (v) 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 Village.

- b. Within 10 days of the receipt by the local tax administrator of any claim for a refund or credit, the local tax administrator shall either:
  - (i) grant the claim; or
  - (ii) 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.
- c. 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 6 percent per annum, based on a year of 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.

F. Audit Procedure: Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this Section.

- 1. Each notice of audit shall contain the following information:
  - a. the tax;
  - b. the time period of the audit; and
  - c. a brief description of the books and records to be made available for the auditor.
- 2. 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 30 days after the originally designated audit and during normal business hours.
- 3. The taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted not less than 7 days nor more than 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 30 days, approved in writing, that is convenient to the taxpayer and the local tax administrator.
- 4. 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 Village.
- 5. It is the duty and responsibility of every taxpayer to make available its books and records for inspection by the Village. If the taxpayer fails to pro-

vide 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.

6. 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 30 days of the Village's determination of the amount of overpayment.
7. 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..

G. Appeal:

1. The local tax administrator shall send written notice to a taxpayer upon the local tax administrator's issuance of a protest able 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:
  - a. The reason for the assessment;
  - b. The amount of the tax liability proposed;
  - c. The procedure for appealing the assessment; and
  - d. The obligations of the Village during the audit, appeal, refund and collection process.
2. 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 45 days of receipt of the written notice of the tax determination and assessment.
3. 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 14 days of receipt of the written protest and petition for hearing, unless the taxpayer requests a later date convenient to all parties.
4. If a written protest and petition for hearing is not filed within the 45 day period, the tax determination, audit or assessment shall become a final bill due and owing without further notice.
5. 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 90 days after the expiration of the 45 day period.

H. Hearing:

1. Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under Section 32.07-G, the local tax administrator shall conduct a hearing regarding any appeal.
2. 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 14 days.
3. 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.
4. 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.

I. 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.

1. Interest: The Village hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax, to be 6 percent per annum, based on a year of 365 days and the number of days elapsed.
2. 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 5 percent of the amount of tax required to be shown as due on a return shall be imposed; and a late payment penalty of 5 percent 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 Village issuing a notice of tax delinquency or notice of tax liability, then a failure to file penalty shall be assessed equal to 25 percent 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.

J. 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.

K. Installment Contracts. The Village 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 30 days delinquent, the taxpayer shall have 14 working days to cure any delinquency. If the taxpayer fails to cure the delinquency within the 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.

L. Statute of Limitations: The Village, 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 45 days after receiving notice of the reviewed tax returns to make any request for refund or provide any tax still due and owing.

1. No determination of tax due and owing may be issued more than 4 years maximum 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.
2. If any tax return is not filed or if during any 4-year period for which a notice of tax determination or assessment may be issued by the Village, the tax paid was less than 75 percent of the tax due, the statute of limitations shall be 6 years maximum after the end of the calendar year in which the return for the applicable period was due or end of the calendar year in which the return for the applicable period was filed.
3. No statute of limitations shall apply if a fraudulent tax return was filed by the taxpayer.

M. 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 1 percent per month, for all periods prior to the filing of the application but not more than 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 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 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.

N. 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 Village Clerk's office.

O. 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:

1. Timely remove the lien at the Village's expense;
2. Correct the taxpayer's credit record; and
3. Correct any public disclosure of the improperly imposed lien.

P. Application: This Section shall be liberally construed and administered to supplement all of the Village's tax ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with this Section, this Section shall be controlling.

**32.08 HOME RULE MUNICIPAL RETAILERS' OCCUPATION TAX and HOME RULE MUNICIPAL SERVICE OCCUPATION TAX *06-0-09***

A. Home Rule Municipal Retailers' Occupation Tax: Except as provided herein, effective July 1, 2006, a tax shall be 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 the State government, at retail in the Village 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 Section is in effect.

B. Home Rule Municipal Service Occupation Tax: Except as provided herein, effective July 1, 2006, a tax is hereby imposed upon all persons engaged in the Village in the business of making sales of services, at the rate of three-quarters percent (3/4%) of the selling price of all tangible personal property transferred by said servicemen, either in the form of tangible personal property or in the form of real estate as an incident to the sale of service.

C. Exceptions: The imposition of the taxes in this Section 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 which have been sold for immediate consumption); prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics; and the sale of tangible personal property that is titled or registered with an agency of the State (e.g., cars, trucks, boats, motorcycles, trailers, snowmobiles and aircraft).

D. The imposition of these home rule taxes is in accordance with the provisions of 65 ILCS 5/8-11-1 and 65 ILCS 5/8-11-5.