

CHAPTER 36

TAXATION

ARTICLE I – GENERALLY

36-1-1 **CORPORATE RATE.** The maximum rate for general corporate purposes of the City be and the same is hereby established at a rate of **.25%**. (See **65 ILCS Sec. 5/8-3-1**)

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

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

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

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

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

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

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

36-1-9 **STREET AND BRIDGE.** The maximum tax for Street and Bridge purposes, be and the same is hereby established at a rate of **.06%**. (See **65 ILCS Sec. 5/11-81-1 and 5/11-81-2**)

ARTICLE II - TAXPAYERS' RIGHTS CODE

36-2-1 **TITLE.** This Article shall be known as, and may be cited as, the "Locally Imposed and Administered Tax Rights and Responsibility Code".

36-2-2 **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.

36-2-3 **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 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 Carlinville, 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.

36-2-4 **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 persons

concerned at the persons' last known address, or

(B) Personal service or delivery.

36-2-5 **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.

36-2-6 **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.

36-2-7 **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)** or less 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 **six percent (6%)** 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.

36-2-8 **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 not less than **seven (7) days** nor 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.

36-2-9 **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.

36-2-10 **HEARING.**

(A) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under **Section 36-2-9**, 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.

36-2-11 **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 **six percent (6%)** 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.

36-2-12 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.

36-2-13 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.

36-2-14 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** 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.

(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.

36-2-15 **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.

36-2-16 **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.

36-2-17 **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.

36-2-18 **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.

(50 ILCS 45/1 et seq.)

ARTICLE III - SIMPLIFIED TELECOMMUNICATIONS TAX

36-3-1 **DEFINITIONS.** As used in this Article, the following terms shall have the following meanings:

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

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

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

(1) any amounts added to a purchaser's bill because of a charge made pursuant to:

(a) the tax imposed by this Section,

(b) the tax imposed by the Telecommunications Excise Tax Act,

(c) the tax imposed by Section 4251 of the Internal Revenue Code,

(d) 911 surcharges, or

(e) charges added to customers' bills pursuant to the provisions of Section 9-221 or 9-222 of the Public Utilities Act, as amended, or any similar charges added to customers' bills by retailers who are not subject to rate regulation by the Illinois Commerce Commission for the purpose of recovering any of the tax liabilities or other amounts specified in those provisions of the Public Utilities Act.

(2) charges for a sent collect telecommunication received outside 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 as exempt under Section 9-222.1 of the Public Utilities Act to the extent of such exemption and during the period of time specified by the Department of Commerce and Economic Opportunity.
- (6) charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries when the tax imposed under this Act has already been paid to a retailer and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit for the corporation rendering such service.
- (7) bad debts ("bad debt" means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable federal income tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made).
- (8) charges paid by inserting coins in coin-operated telecommunications devices.
- (9) amounts paid by telecommunications retailers under the Telecommunications Infrastructure Maintenance Fee Act.
- (10) Charges for nontaxable services or telecommunications if:
 - (a) those charges are aggregated with other charges for telecommunications that are taxable,
 - (b) those charges are not separately stated on the customer bill or invoice, and
 - (c) the retailer can reasonably identify the nontaxable charges on the retailer's books and records kept in the regular course of business.

If the nontaxable charges cannot reasonably be identified, the gross charge from the sale of both taxable and nontaxable services or telecommunications billed on a combined basis shall be attributed to the taxable services or telecommunications. The burden of proving nontaxable charges shall be on the retailer of the telecommunications.

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

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

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

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

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

(I) **"Retailer maintaining a place of business in this State"**, or any like term, means and includes any retailer having or maintaining within the State, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.

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

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

(L) **"Taxpayer"** means a person who individually or through his or her agents, employees, or permittees, engages in the act or privilege of originating or receiving telecommunications in a municipality and who incurs a tax liability as authorized by the Article.

(M) **"Telecommunications"**, in addition to the meaning ordinarily and popularly ascribed to it, includes, without limitation, messages or information transmitted through use of local, toll, and wide area telephone service, private line services, channel services, telegraph services, teletypewriter, computer exchange services, cellular mobile telecommunications service, specialized mobile radio, stationary two-way radio, paging service, or any other form of mobile and portable one-way or two-way communications, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. As used

in this Article, "private line" means a dedicated non-traffic sensitive service for a single customer, that entitles the customer to exclusive or priority use of a communications channel or group of channels, from one or more specified locations to one or more other specified locations. The definition of "telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission "Telecommunications" shall not include purchases of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the taxable end-to-end communications. Carrier access charges, right of access charges, charges for use of inter-company facilities, and all telecommunications resold in the subsequent provision of, used as a component of, or integrated into, end-to-end telecommunications service shall be non-taxable as sales for resale. Prepaid telephone calling arrangements shall not be considered "telecommunications" subject to the tax imposed under this Act. For purposes of this Section, "prepaid telephone calling arrangements" means that term as defined in Section 2-27 of the Retailers' Occupation Tax Act.

36-3-2 SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX IMPOSED.

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

(A) The act or privilege of originating in the City or receiving in the City intrastate telecommunications by a person at a rate of **one percent (1%)** of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-municipal taxation of the act or privilege that is subject to taxation under this subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another municipality on that event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of the tax properly due and paid in the municipality that was not previously allowed as a credit against any other municipal tax.

(B) The act or privilege of originating in the City or receiving in the City interstate telecommunications by a person at a rate of **one percent (1%)** of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-state or multi-municipal taxation of the act or privilege that is subject to taxation under this Section, any taxpayer, upon proof that the taxpayer has paid a tax in another state or municipality in this State on such event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of such tax properly due and paid in such other state or such tax properly due and paid in a municipality in this State which was not previously allowed as a credit against any other state.

(C) The tax imposed by this Article is not imposed on such act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by the City.

36-3-3 COLLECTION OF TAX BY RETAILERS.

(A) The tax authorized by this Article shall be collected from the taxpayer by a retailer maintaining a place of business in this State and shall be remitted by such retailer to the Department. Any tax required to be collected pursuant to or as authorized by this Article and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Retailers shall collect the tax from the taxpayer by adding the tax to the gross charge for the act or privilege of originating or receiving telecommunications when sold for use, in the manner prescribed by the Department.

The tax authorized by this Article shall constitute a debt of the taxpayer to the retailer until paid, and, if unpaid, is recoverable at law in the same manner as the original charge for such sale at retail. If the retailer fails to collect the tax from the taxpayer, then the taxpayer shall be required to pay the tax directly to the Department in the manner provided by the Department.

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

36-3-4 RETURNS TO DEPARTMENT. On or before the last day of **February, 2016**, and on or before the last day of each month thereafter, the tax imposed under this Article on telecommunication retailers shall be returned with appropriate forms and information as required by the Department pursuant to the Illinois Simplified Municipal Telecommunications Tax Act (Public Act 92-526, Section 5-50) and any accompanying rules and regulations created by the Department to implement this Act.

36-3-5 RESELLERS.

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

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

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

ARTICLE IV - HOTEL OPERATORS' OCCUPATION TAX

36-4-1 **IMPOSED.** The City hereby adopts the provisions of **65 ILCS 5/8-3-14**, as amended, and imposes a tax upon all persons engaged within the City in the business of renting, leasing or letting rooms in a hotel, as defined in the Hotel Operators' Occupation Tax Act, being **35 ILCS 145 et seq.**, at a rate of **five percent (5%)** of the gross rental receipts from that renting, leasing or letting of rooms in a hotel, excluding however, from gross rental receipts, the proceeds of the renting, leasing or letting to permanent residents of each hotel, this tax to be administered and collected in accordance with this Section.

36-4-2 **DEFINITIONS.** All terms used in this Section shall have the following meanings as defined in the Hotel Operators' Occupation Tax Act, **35 ILCS 145 et seq.**, as applicable and as the same shall be in force and effect from time to time.

(A) **"Hotel"** means 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.

(B) **"Operator"** means any person operating a hotel.

(C) **"Occupancy"** means the use or possession, or the 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.

(D) **"Room" or "rooms"** means any living quarters, sleeping or housekeeping accommodations.

(E) **"Permanent resident"** means 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 **thirty (30) consecutive days.**

(F) **"Rent" or "rental"** means 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.

(G) **"Person"** means 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.

36-4-3 **TAX CONSTITUTING SEPARATE CHARGE.** Those persons subject to the tax imposed by this Section may reimburse themselves for their tax liability for the tax by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with the state tax imposed under the Hotel Operators' Occupation Tax Act heretofore cited.

36-4-4 **EXEMPTIONS FROM TAX.** Gross rental receipts from the renting, leasing, or letting rooms in a hotel only to permanent residents shall be exempt from the provisions of this Section, and persons subject to the tax imposed hereby shall be entitled to

exclude from gross rental receipts, for the purpose of computing the tax imposed hereby, that portion of the proceeds arising from renting, leasing or letting to permanent residents of the hotel operated by the person.

36-4-5 **USE OF PROCEEDS.** The City shall expend the tax collected pursuant to this Section solely to promote tourism and conventions within the city and, otherwise, to attract nonresident, overnight visitors to the City, and no tax collected pursuant to this Section shall be used to advertise for or otherwise to promote new competition in the hotel business within the City.

36-4-6 **BOOKS AND RECORDS.** Every person subject to the tax imposed by this Section shall keep separate books and records of his or her business as an operator so as to show the rents and occupancies taxable under this Section separately from his or her transactions not taxable hereunder. If any operator fails to keep these separate books or records, he or she shall be liable to tax at the rate designated herein upon the entire gross proceeds from the operation of his or her hotel.

36-4-7 **REGISTRATION.** Every person engaged within the City in the business of renting, leasing or letting rooms in a hotel, so as to be subject to the tax imposed hereby, shall register his or her operation in the office of the City Clerk upon a registration form to be adopted and prescribed by the City, which form shall include that information as shall be reasonably necessary in order to issue collection and enforcement of the tax imposed by this Section.

36-4-8 **TAX RETURNS.** Each person required to register and subject to the tax imposed pursuant to this Code shall file tax returns with the City Clerk on a quarter-annual basis with the return for January, February and March of a given year due by **April 30** of such year; with the return for April, May and June of a given year due by **July 31** of such year; with the return for July, August and September of a given year being due by **October 31** of such year; and with the return for October, November and December of a given year due by **January 31** of the following year. The quarter-annual returns shall be on a form approved by the City, and shall include copies of the tax return or returns covering the same quarter-annual period filed by that person with the State Department of Revenue and the State of Illinois pursuant to the Hotel Operators' Occupation Tax Act heretofore cited. **(Ord. No. 1637; 06-06-11)**

36-4-9 **PAYMENT OF TAX.** The tax due pursuant to this Section shall be due and payable on or before the date the tax return showing the tax liability is filed with the City Clerk and shall be paid to the City Clerk together with any interest and penalty due, and the City Clerk shall deposit the funds so collected into a separate fund to be designated "Hotel Operators' Occupation Tax Fund".

36-4-10 **INTEREST AND PENALTIES.** If the tax due pursuant to this Section is not paid on or before the due date of the return required to be filed by the person responsible for the payment of the tax, that person shall in addition to the tax, be liable for a penalty equal to **one and one-half percent (1.5%)** of the tax due for each month, or part thereof, until the tax and penalty is paid in full. The penalty imposed hereby shall be assessed and collected in the same manner as the tax imposed under this Section.

36-4-11 **PENALTIES FOR LATE FILING.** Any person responsible for filing a tax return and paying tax pursuant to this Section who shall fail to file the required tax return on or before the due date thereof, whether or not the tax is paid therewith, shall be liable for a penalty in the amount of **Ten Dollars (\$10.00)** per day for each day that the tax return is late, and each day shall constitute a separate offense for purposes hereof.

36-4-12 **COMPLIANCE.** All returns required to be filed hereunder shall be executed by the proprietor, a general partner, or an authorized corporate officer and shall be made under penalties of perjury. Any person willfully filing a return containing false or inaccurate information shall be guilty of perjury and of a violation of this Section, and shall be subject to the fine imposed for violations of this Section in addition.

36-4-13 **AUDITS.** The City, through its designated agent or officer, shall have the right, at reasonable times after reasonable notice, to examine all books and records maintained by the person registered or required to be registered under this Section, including, but not limited to, general accounting records, bank records, returns required to be filed under the Hotel Operators' Occupation Tax Act heretofore cited, state and federal income tax returns, and any other books, records or documents which are relevant in the determination and confirmation of the full and accurate reporting of gross receipts on which tax is imposed by this Section, the entitlement to any exemptions claimed, and the payment of the full tax due pursuant to this Section.

36-4-14 **LIEN IMPOSED.** At any time after an assessment and demand for payment of any tax interest or penalty due pursuant to this Section is made against any person, the City may file a notice of lien for that tax, in the office of the Recorder of Deeds of Macoupin County, Illinois, and a lien shall attach to all property owned by the person in the City of Carlinville, Illinois, and shall continue in effect for a period of **seven (7) years** after filing and may be foreclosed in the manner of a judicial lien. The remedy for imposing a lien hereunder shall be in addition to all other remedies available to the City to collect the tax, interest and penalty due, including civil actions.

36-4-15 **FAILURE TO PAY.** Whenever any person shall fail to pay any taxes, interest or penalties as hereinabove required, such person shall be required to pay the reasonable costs and attorney's fees incurred by the City in collecting the same, and the City Attorney shall, upon the request of the corporate authorities, bring an action to collect the payment of such taxes, interest and penalties, together with the costs and reasonable attorney's fees incurred in connection therewith, in any court of competent jurisdiction.

(Ord. No. 1632; 05-02-11)

ARTICLE V – BUSINESS DISTRICT TAX

36-5-1 TAX IMPOSED. Effective **January 1, 2013** certain taxes are hereby imposed in accord with the provisions of the Illinois Business District Development and Redevelopment Law (“the Law”), **65 ILCS 5/11-74.3-3 (10)** and **(11)** as follows:

(A) A tax to be known as the “Business District Retailers’ Occupation 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 Carlinville Plaza 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 ordinance is in effect. This “Business District Retailers’ 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, 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.

(B) A tax to be known as the “Business District Service Occupation Tax” is hereby imposed upon all persons engaged within the boundaries of the Carlinville Plaza 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.

(C) A tax to be known as the “Business District Hotel Operators’ Occupation Tax” is hereby imposed upon all persons engaged within the boundaries of the Carlinville Plaza Business District in the business of renting, leasing or letting of hotel rooms within the Business District, at the rate of **one percent (1%)**.

36-5-2 COMPLIANCE WITH STATUTES. 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 Municipal Code (**65 ILCS 5/11-74.3-6**). The City Council shall adopt an ordinance to discontinue these Business District Taxes such that said taxes shall not be imposed for more than **twenty-three (23) years**, in accordance with Illinois Law, within the time frame necessary to duly notify the Illinois Department of Revenue (not less than **three (3) months** but no more than **eight (8) months** prior to discontinuation).

36-5-3 ENFORCEMENT. The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto shall be collected, administered, and enforced in accordance with **65 ILCS 5/11-74.3-6**.

36-5-4 FILING OF CERTIFIED COPY. The Municipal Clerk is hereby directed to file a certified copy of this Article with the Illinois Department of Revenue and publish the same as required by law.

(Ord. No. 1682; 10-01-12)

ARTICLE VI – RETAILERS’ OCCUPATION TAX

36-6-1 TAX IMPOSED. 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 and registered with an agency of this State’s government, at retail in this Municipality 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 in this Municipality 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 while this Article is in effect. This “Non-Home Rule Municipal Retailers’ Occupation Tax” and this “Non-Home Rule Municipal Service Occupation Tax” shall not be applicable to the sales of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing material, syringes and needles used by diabetics.

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

36-6-2 ILLINOIS DEPARTMENT OF REVENUE TO ADMINISTER. 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.

36-6-3 CLERK TO FILE ORDINANCE WITH ILLINOIS DEPARTMENT OF REVENUE. The City Clerk is hereby directed to file a certified copy of this Article and a certification that the Article received referendum approval with the Illinois Department of Revenue on or before the **first (1st) day of October, 2013**.

36-6-4 EFFECTIVE DATE. This Article shall take effect on the **first (1st) day of January, 2014**, next following the adoption and filing of this Article with the Department of Revenue.

36-6-5 REPEAL OF CONFLICTING PROVISIONS. All ordinances and resolutions or parts thereof, in conflict with the provisions of this Article are, to the extent of the conflict, expressly repealed on the effective date of this Article.

(Ord. No. 1709; 08-19-13)

ARTICLE VII - FOREIGN FIRE INSURANCE COMPANIES

36-7-1 CONFORMANCE. It shall be unlawful for any corporation or association, not incorporated under the laws of the State of Illinois to engage in the City in effecting fire insurance or to transact any business of fire insurance in this City, while in default by not fully complying with any of the requirements of this Section, and until such requirements shall have been fully complied with; but this provision shall not relieve any company, corporation or association from the payment of any risk that may be undertaken in violation of this Section.

36-7-2 FEES. Any such corporation, company or association not incorporated under the laws of the State of Illinois, which is engaged in the City in effecting fire insurance, shall pay the City Treasurer for the maintenance, use, and benefit of the Fire Department of the City, a sum of money equal in amount to **two percent (2%)** per annum of the gross receipts received as premiums upon fire insurance policies by any and all agents of such corporation, company, association during the year ending on the first day of July in each year, for any insurance effected or agreed to be effected on property located in the City by or with such corporation, company, or association during such year.

36-7-3 REQUIRED REPORTS. Every person acting in the City as agent for or on behalf of any such corporation, company, or association shall, on or before the **fifteenth (15th) day** of July of each and every year, render the City Clerk a full, true, and just account verified by oath of all premiums upon fire insurance policies which, during the year ending the first day of July preceding such report, shall have been received by him, or by some other person for him, in his behalf of any such corporation, company or association on property located in the City. Such agent shall also, at the time of rendering the aforesaid report, pay to the City Treasurer the sum of money for which company, corporation, or association represented by him is chargeable, by virtue of the provisions of this Section.

36-7-4 RECOVERY OF MONIES. The sum of money for which such company, corporation, or association is so chargeable may be recovered of it, or its agents or agent, by an action in the name of and for the use of the City as for money had and received. Nothing in this Section shall be held to exempt any person, corporation, company, association from indictment and conviction under the provisions of an act entitled "An Act to enable cities, towns, and villages, organized under any general or special law, to levy and collect a tax or license fee from foreign insurance companies for the benefit of organized fire department," in force **July 1, 1895**.

36-7-5 UNLAWFUL OPERATION. No insurance agent in the City shall have any insurance business or dealings with any company, association, or corporation not incorporated under the laws of this state, which shall be in default for not reporting or making payments as hereinbefore provided, until it shall have complied with all the requirements of this Section.

36-7-6 PENALTY. Any person violating any of the provisions of this Section shall, upon conviction, be fined as provided in **Section 1-1-20** of the City Code.

ARTICLE VIII – GAS TAX

36-8-1 **TAX IMPOSED.** A tax is imposed on all persons engaged in the following occupations or privileges:

(A) Persons engaged in the business of distributing, supplying, furnishing or selling gas for use or consumption within City and not for resale, at the rate of **five percent (5%)** of the gross receipts therefrom.

36-8-2 **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 such business may not, under the Constitution and Statutes of the United States, be made subject to taxation by this State or any political subdivision thereof; nor shall any person engaged in the business of distributing, supplying, furnishing or selling gas, 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 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 **Chapter 65, Sec. 5/8-11-1, Illinois Compiled Statutes**, nor shall any tax authorized by this Section be imposed upon any person engaged in the business unless such tax is imposed in like manner and at the same rate upon all persons engaged in the business of the same class in the Municipality, whether privately or municipally owned or operated.

36-8-3 **ADDITIONAL 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.

36-8-4 **DEFINITIONS.** For the purposes of this Article, the following definitions shall apply:

"GROSS RECEIPTS" means the consideration received for distributing, supplying, furnishing or selling gas for use or consumption and not for resale, 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 such messages without any deduction on account of the service, product or commodity supplied, the cost of materials used, labor or service costs, 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.

36-8-5 **REPORTS TO MUNICIPALITY.** On or before the last day of September, each taxpayer shall make a return to the City Treasurer for the months of June, July and August, 2002, 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 third month thereafter, each taxpayer shall make a like return to the City Treasurer for a corresponding **three (3) month** period.

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.

36-8-6 **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.

36-8-7 **PENALTY.** Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willingly violates any other provision of this Article shall, upon conviction, be fined as provided in **Section 1-1-20** of the City Code and in addition, shall be liable in a civil action for the amount of tax due.

(65 ILCS 5/8-11-2)

ARTICLE IX - ELECTRICITY TAX

36-9-1 **TAX IMPOSED.** A tax is imposed on all persons engaged in the following occupations or privileges:

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

(1)	First 2,000 KWH	0.61 cents per KWH
(2)	Next 48,000 KWH	0.40 cents per KWH
(3)	Next 50,000 KWH	0.36 cents per KWH
(4)	Next 400,000 KWH	0.35 cents per KWH
(5)	Next 500,000 KWH	0.34 cents per KWH
(6)	Next 2,000,000 KWH	0.32 cents per KWH
(7)	Next 2,000,000 KWH	0.315 cents per KWH
(8)	Next 5,000,000 KWH	0.310 cents per KWH
(9)	Next 10,000,000 KWH	0.305 cents per KWH
(10)	Over 20,000,000 KWH	0.300 cents per KWH

(B) Pursuant to **65 ILCS 5/8-11-2**, the rates set forth in subsection (A) above shall be effective **January 1, 2016**.

36-9-2 **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 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 Article for those transactions that are or may become subject to taxation under the provisions of the "**Municipal Retailer's Occupation Tax Act**" as authorized by **65 ILCS 5/8-11-1**; 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 businesses of the same class in the Municipality. All accounts of the City shall be exempt from the taxes imposed by this ordinance.

36-9-3 **ADDITIONAL TAXES.** Such tax shall be in addition to other taxes levied upon the taxpayer or its business.

36-9-4 **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 City upon request. If the person delivering the electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the City in the manner prescribed by the City. 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.

36-9-5 **REPORTS TO CITY.** On or before the last day of each month, each taxpayer who has not paid the tax imposed by this Article to a person delivering electricity as set forth in **Section 36-5-4** and who is not otherwise exempted from paying such tax 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, the amount of tax herein imposed; provided that in connection with any return, the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings, and the taxable gross receipts.

36-9-6 **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.

36-9-7 **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 **Seven Hundred Fifty Dollars (\$750.00)** in addition, shall be liable in a civil action for the amount of tax due. **(See 65 ILCS 5/8-11-2)**

36-9-8 **UNCONSTITUTIONAL.** In the event that Public Act 90-561 is declared unconstitutional, or if **Section 36-9-1 of Article IX** created by this Ordinance is voided by court action, the provisions of the City Code commonly known as the Gross Receipts Utility Tax shall remain in effect in all respects as if it had never been amended by this Ordinance, and any amounts paid to the City by any person delivering electricity pursuant to this Ordinance shall be deemed to have been paid pursuant to the Gross Receipts Utility Tax as it existed prior to the passage of this Amendatory Ordinance.

ARTICLE X – MUNICIPAL CANNABIS RETAILERS’ OCCUPATION TAX

36-10-1 TAX IMPOSED; RATE.

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

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

36-10-2 COLLECTION OF TAX BY RETAILERS.

(A) The tax imposed by this Article shall be remitted by such retailer to the Illinois Department of Revenue (Department). Any tax required to be collected pursuant to or as authorized by this Article and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Retailers may reimburse themselves for their seller’s tax liability hereunder by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that sellers are required to collect.

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

(Ord. No. 1810; 09-16-19)