

CHAPTER 31: FINANCE AND REVENUE; TAXATION

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LOCALLY IMPOSED AND ADMINISTERED TAX RIGHTS AND RESPONSIBILITY

§ 31.01 TITLE.

This subchapter shall be known as, and may be cited as, the "Locally Imposed and Administered Tax Rights and Responsibility Ordinance."
(Ord. 3-1-B, passed 10-18-2006)

§ 31.02 SCOPE.

The provisions of this subchapter shall apply to the Village procedures in connection with all of the Village locally imposed and administered taxes.
(Ord. 3-1-B, passed 10-18-2006)

§ 31.03 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT. The Local Government Taxpayers' Bill of Rights Act, being ILCS Ch. 50, Act 45, §§ 1 *et seq.*

CORPORATE AUTHORITIES. The Village President and Board of Trustees.

LOCAL TAX ADMINISTRATOR. The Village 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 subchapter to give full effect to this subchapter. The exercise of that authority by the **LOCAL TAX ADMINISTRATOR** shall not be inconsistent with this subchapter and the Act.

LOCALLY IMPOSED AND ADMINISTERED TAX or TAX. Each tax imposed by the Village that is collected or administered by the Village and 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.

NOTICE. Each audit notice, collection notice, or other similar notice or communication in connection with each of the Village locally imposed and administered taxes.

TAX ORDINANCE. Each ordinance adopted 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 the 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.

VILLAGE. The of Village of Port Barrington, Illinois.

(Ord. 3-1-B, passed 10-18-2006)

§ 31.04 NOTICES.

- (A) Unless otherwise provided, whenever notice is required to be given, the notice is to be in writing and mailed not less than seven calendar days prior to the day fixed for any applicable hearing, audit, or other scheduled act of the Local Tax Administrator.
- (B) The notice shall be sent by the Local Tax Administrator as follows:
 - (1) First-class or express mail, or overnight mail, addressed to the persons concerned at the persons' last known address; or
 - (2) Personal service or delivery.

(Ord. 3-1-B, passed 10-18-2006)

§ 31.05 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 received by the Village 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 Village, with adequate postage prepaid.

(Ord. 3-1-B, passed 10-18-2006)

§ 31.06 PAYMENT.

- (A) *Generally.* Any payment or remittance received for a tax period shall be applied in the following order.

(B) *Specifically.*

- (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.

(Ord. 3-1-B, passed 10-18-2006)

§ 31.07 CERTAIN CREDITS AND REFUNDS.

- (A) 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.
- (B) The statute of limitations on a claim for credit or refund shall be two or less 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.
- (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 moneys to the Village.
 - (2) Within ten 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 6% 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.

(Ord. 3-1-B, passed 10-18-2006)

§ 31.08 AUDIT PROCEDURE.

- (A) *Generally.* Any request for proposed audit pursuant to any locally administered tax shall comply with the notice requirements of this subchapter.
- (B) *Specifically.*
- (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 seven 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 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 Local 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 the tax.

(Ord. 3-1-B, passed 10-18-2006)

§ 31.09 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 Village 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 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 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 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 90 days after the expiration of the 45-day period.

(Ord. 3-1-B, passed 10-18-2006)

§ 31.10 HEARING.

- (A) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under § 31.09, 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 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.

(Ord. 3-1-B, passed 10-18-2006)

§ 31.11 INTEREST AND PENALTIES.

- (A) *Generally.* 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.
- (B) *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 9% per annum, based on a year of 365 days and the number of days elapsed.
- (C) *Late filing and payment penalties.*
 - (1) If a tax return is not filed within the time and manner provided by the controlling tax ordinance, a late filing penalty of 5% of the amount of tax required to be shown as due on a return shall be imposed; and a late payment penalty of 5% of the tax due shall be imposed.
 - (2) 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 20% of the total tax due for the applicable reporting period for which the return was required to be filed.
 - (3) A late filing or payment penalty shall not apply if a failure to file penalty is imposed by the controlling ordinance.

(Ord. 3-1-B, passed 10-18-2006)

§ 31.12 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.

(Ord. 3-1-B, passed 10-18-2006)

§ 31.13 INSTALLMENT CONTRACTS.

- (A) The Village may enter into an installment contract with the taxpayer for the payment of taxes under the controlling tax ordinance.
- (B) The Local Tax Administrator may not cancel any installment contract so entered unless the taxpayer fails to pay any amount due and owing.
- (C) 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.
- (D) 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 Tax Administrator, the installment contract shall be canceled without further notice to the taxpayer.

(Ord. 3-1-B, passed 10-18-2006)

§ 31.14 STATUTE OF LIMITATIONS.

- (A) 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.
- (B) No determination of tax due and owing may be issued more than two years after the end of the calendar year for which the return for the applicable period was filed or for the calendar year in which the return for the applicable period was due, whichever occurs later.
- (C) If any tax return is not filed or if, during any four-year period for which a notice of tax determination or assessment may be issued by the Village, the tax paid was less than 75% of the tax due, the statute of limitations shall be six 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.
- (D) No statute of limitations shall apply if a fraudulent tax return was filed by the taxpayer.

(Ord. 3-1-B, passed 10-18-2006)

§ 31.15 VOLUNTARY DISCLOSURE.

- (A) 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.
- (B) A taxpayer filing a voluntary disclosure application must agree to pay the amount of tax due, along with interest of 1% per month, for all periods prior to the filing of the application, but not more than four years before the date of filing the application.
- (C) 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.
- (D) 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.
- (E) 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.
- (F) 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.

(Ord. 3-1-B, passed 10-18-2006)

§ 31.16 PUBLICATION OF TAX ORDINANCES.

- (A) Any locally administered tax ordinance shall be published via normal or standard publishing requirements.
- (B) 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.
(Ord. 3-1-B, passed 10-18-2006)

§ 31.17 LIENS.

- (A) 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.
- (B) 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.
(Ord. 3-1-B, passed 10-18-2006)

§ 31.18 APPLICATION.

- (A) This subchapter shall be liberally construed and administered to supplement all of the Village's tax ordinances.
- (B) To the extent that any tax ordinance is in conflict with or inconsistent with this subchapter, this subchapter shall be controlling.
(Ord. 3-1-B, passed 10-18-2006)

§ 31.19 EFFECTIVE DATE.

This subchapter shall be in full force and effect after passage, approval, and publication, as required by law.
(Ord. 3-1-B, passed 10-18-2006)

INVESTMENT POLICY

§ 31.30 POLICY; GENERALLY.

It is the policy of the Village to invest public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the entity and conforming to all state and local statutes governing the investment of public funds.
(Ord. 1-7-C, passed 9-20-2006)

§ 31.31 SCOPE.

This policy includes all funds governed by the Village.
(Ord. 1-7-C, passed 9-20-2006)

§ 31.32 PRUDENCE.

- (A) Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital, as well as the probable income to be derived.
- (B) The standard of prudence to be used by investment officials shall be the “prudent person” standard and shall be applied in the context of managing an overall portfolio.

(Ord. 1-7-C, passed 9-20-2006)

§ 31.33 OBJECTIVE.

- (A) The primary objective, in order of priority, shall be:
 - (1) *Legality.* Conformance with federal, state, and other legal requirements;
 - (2) *Safety.* Preservation of capital and protection of investment principal;
 - (3) *Liquidity.* Maintenance of sufficient liquidity to meet operating requirements; and
 - (4) *Yield.* Attainment of market rates of return.
- (B) The portfolio should be reviewed periodically as to its effectiveness in meeting the entity’s needs for safety, liquidity, rate of return, diversification, and its general performance.

(Ord. 1-7-C, passed 9-20-2006)

§ 31.34 DELEGATION OF AUTHORITY.

Management and administrative responsibility for the investment program is hereby delegated to the Treasurer who, under the delegation of the Board of Trustees, shall establish written procedures for the operation of the investment program.

(Ord. 1-7-C, passed 9-20-2006)

§ 31.35 ETHICS AND CONFLICTS OF INTEREST.

Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions.

(Ord. 1-7-C, passed 9-20-2006)

§ 31.36 AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS.

- (A) The Village Board of Trustees will have the sole responsibility to select which financial institutions (IPTIP, banks, savings and loans, credit unions, and other non-banks) will be depositories for the Village.
- (B) Any financial institution, upon meeting the requirements of the state statutes and this policy, may request to become a depository for the Village funds.
- (C) The Village will take into consideration security, size, location, financial condition, service fees, competitiveness, and the community relations involvement of the financial institution when choosing depositories.

(Ord. 1-7-C, passed 9-20-2006)

§ 31.37 AUTHORIZED AND SUITABLE INVESTMENTS.

- (A) Investments may be made in any type of security allowed for in state statutes regarding the investment of public funds.
- (B) Investments shall be made that reflect the cash flow needs of the fund type being invested.

(Ord. 1-7-C, passed 9-20-2006)

§ 31.38 COLLATERALIZATION.

- (A) At all times in order to meet the objective of safety of capital, the Treasurer will require deposits in excess of the federally insured amount to be collateralized to the extent of 110% and evidenced by an approved written agreement.
- (B) Maturity of acceptable collateral shall not exceed 120 months.
- (C) The ratio of fair market value of collateral to the amount of funds secured shall be reviewed weekly and additional collateral will be requested when the ratio declines below the required level.

(Ord. 1-7-C, passed 9-20-2006)

§ 31.39 SAFEKEEPING AND CUSTODY.

- (A) All security transactions, including collateral for repurchase agreements, entered into by the Village shall be conducted on a delivery-versus-payment (DVP) basis.
- (B) Securities will be held by an independent third-party custodian designated by the Treasurer and evidenced by safekeeping receipts and a written custodial agreement.

(Ord. 1-7-C, passed 9-20-2006)

§ 31.40 DIVERSIFICATION.

- (A) The Village shall diversify its investments to the best of its ability based on the type of funds invested and the cash flow needs of those funds.
- (B) Diversification can be by type of investment, number of institutions invested in, and length of maturity.
(Ord. 1-7-C, passed 9-20-2006)

§ 31.41 MAXIMUM MATURITIES.

- (A) To the extent possible, the Village shall attempt to match its investments with anticipated cash flow requirements.
- (B) Unless matched to a specific cash flow, the Village will not directly invest in securities maturing more than ten years from the date of purchase.
- (C) Reserve funds may be invested in securities exceeding ten years if the maturity of the investments are made to coincide as nearly as practicable with the expected use of the funds.
(Ord. 1-7-C, passed 9-20-2006)

§ 31.42 INTERNAL CONTROL.

- (A) The Treasurer is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the entity are protected from loss, theft, or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met.
- (B) The internal controls shall address the following points:
 - (1) Control of collusion;
 - (2) Separation of transaction authority from accounting;
 - (3) Custodial safekeeping; and
 - (4) Written confirmation of telephone transactions for investments and wire transfers.
(Ord. 1-7-C, passed 9-20-2006)

§ 31.43 PERFORMANCE STANDARDS.

- (A) The investment portfolio will be managed in accordance with the parameters specified within this policy.
- (B) The portfolio should obtain a comparable rate of return during a market/economic environment of stable interest rates.
- (C) Portfolio performance should be compared to benchmarks with similar maturity, liquidity, and credit quality as the portfolio (i.e., 90-day T-bill, Illinois Funds, and the like).
(Ord. 1-7-C, passed 9-20-2006)

§ 31.44 REPORTING.

- (A) The Treasurer shall prepare an investment report at least monthly.
- (B) The report should be provided to the Board of Trustees and available on request.
- (C) The report should be in a format suitable for review by the general public.
- (D) An annual report should also be provided to the Board.

(Ord. 1-7-C, passed 9-20-2006)

§ 31.45 MARKET VALUE STATEMENT.

A statement of the market value of the portfolio shall be issued to the Board of Trustees quarterly.
(Ord. 1-7-C, passed 9-20-2006)

§ 31.46 POLICY ANNUAL REVIEW.

- (A) The investment policy shall be adopted by the Board of Trustees.
- (B) The policy shall be reviewed on an annual basis by the Treasurer and any modifications made thereto must be approved by the Board of Trustees.

(Ord. 1-7-C, passed 9-20-2006)

MUNICIPAL TELECOMMUNICATIONS TAX

§ 31.60 FINDINGS.

- (A) The Village has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and that protect the public health, safety, and welfare of its citizens.
- (B) The Village imposes certain taxes and fees related to telecommunications services.
- (C) The Village has enacted a Telecommunications Tax Ordinance, which imposes a telecommunications tax.
- (D) Pursuant to ILCS Ch. 35, Act 635, §§ 1 *et seq.*, the Village has enacted the Telecommunications Infrastructure Maintenance Fee Ordinance, which imposes a telecommunications infrastructure fee.
- (E) On 2-8-2002, the State Governor signed into law Pub. L. No. 92-0526, entitled the Simplified Municipal Telecommunications Tax Act, being ILCS Ch. 35, Act 636, providing that, effective 1-1-2004, the municipal telecommunications tax and municipal telecommunications infrastructure maintenance fee will be replaced with a simplified municipal telecommunications tax at a rate of up to 6% of gross charges in municipalities.

- (F) This subchapter is intended to implement the provisions of Pub. L. No. 92-0526, including the imposition of the simplified telecommunications tax in lieu of the existing telecommunications tax and telecommunications infrastructure maintenance fee.
- (G) The simplified telecommunications tax will have the benefit of easing burdens on businesses by reducing the number of filings and payments required each year.
- (H) This subchapter is intended to impose the tax authorized by the Act providing for a single municipal imposed telecommunications tax which will be collected by the State Department of Revenue.

(Ord. 3-2-B, passed 9-17-2003)

§ 31.61 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AMOUNT PAID. The amount charged to the taxpayer's service address in this municipality regardless of where the amount is billed or paid.

DEPARTMENT. The State Department of Revenue.

GROSS CHARGE. The amount paid for the act or privilege of originating or receiving telecommunications in this municipality and for all services and equipment provided in connection therewith by a retailer, valued in money whether paid in money or otherwise, including cash, credits, services, and property of every kind or nature, and shall be determined without any deduction on account of the cost of the telecommunications, the cost of the materials used, labor or service costs, or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. **GROSS CHARGES** for private line service shall include charges imposed at each channel point within this municipality, and charges for that portion of the interstate inter-office channel provided within this state. However, **GROSS CHARGE** shall not include:

- (1) Any amounts added to a purchaser's bill because of a charge made pursuant to the tax imposed by this subchapter; the tax imposed by the Telecommunications Excise Tax Act; the tax imposed by § 4251 of the Internal Revenue Code, being 26 U.S.C. § 4251; 911 surcharges; or charges added to customer's bills pursuant to the provisions of §§ 9-221 or 9-222 of the Public Utilities Act, being ILCS Ch. 220, Act 5, §§ 9-221 or 9-222, as amended, or similar charges added to customer's bills by retailers who are not subject to rate regulation by the State Commerce Commission for the purpose of recovering any of the tax liabilities or other amounts specified in those provisions of the Public Utilities Act;
- (2) Charges for a sent collect telecommunication received outside of the municipality;
- (3) Charges for leased time on equipment or charges for the storage of data or information for subsequent retrieval or the processing of data or information intended to change its form or content. The 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 any equipment that is leased or rented by the customer from any source, wherein the charges are disaggregated and separately identified from other charges;
- (5) Charges to business enterprises certified as exempt under § 9-222.1 of the Public Utilities Act, to the extent of the exemption and during the period of time specified by the Department of Commerce and Community Affairs;
- (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 subchapter 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 the service;
- (7) Bad debts (***BAD DEBT*** means any portion of a debt that is related to a sale at retail for which ***GROSS CHARGES*** are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable federal income tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made);
- (8) Charges paid by inserting coins in coin-operated telecommunication devices; or
- (9) Amounts paid by telecommunications retailers under the Telecommunications Infrastructure Maintenance Fee Act.

INTERSTATE TELECOMMUNICATIONS. All telecommunications that either originate or terminate outside this state.

INTRASTATE TELECOMMUNICATIONS. All telecommunications that originate or terminate within this state.

PERSON. 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 the state.

PURCHASE AT RETAIL. The acquisition, consumption, or use of telecommunications through a sale at retail.

RETAILER.

- (1) Every person engaged in the business of making sales at retail, as defined in this section.
- (2) 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 ensure collection and payment of the tax.

- (3) The retailer shall be issued, without charge, a permit to collect the tax.
- (4) When so authorized, it shall be the duty of the 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.
- (5) The permit may be revoked by the Department, at its discretion.

RETAILER MAINTAINING A PLACE OF BUSINESS IN THIS STATE. Or any like term, means and includes any retailer having or maintaining within this state, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse, or other place of business, or any agent or other representative operating within this state under the authority of the retailer or its subsidiary, irrespective of whether the place of business or agent or other representative is located here permanently or temporarily, or whether the retailer or subsidiary is licensed to do business in this state.

SALE AT RETAIL. 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.

SERVICE ADDRESS. 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, being ILCS Ch. 35, Act 638. For air-to-ground systems and the like, **SERVICE ADDRESS** shall mean the location of the taxpayer's primary use of the telecommunications equipment as defined by telephone number, authorization code, or location in this state where bills are sent.

TAXPAYER. 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 tax liability as authorized by this subchapter.

TELECOMMUNICATIONS. In addition to the meaning ordinarily 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 mobiles 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 subchapter, **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 the 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 subchapter. For the purposes of this definition, **PREPAID TELEPHONE CALLING ARRANGEMENTS** means that term as defined in § 2-27 of the Retailer's Occupations Tax Act, being ILCS Ch. 35, Act 120.

(Ord. 3-2-B, passed 9-17-2003)

§ 31.62 SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX IMPOSED.

(A) *Generally.* A tax is hereby imposed upon any and all of the following acts or privileges.

(B) *Specifically.*

- (1) The act or privilege of originating in the municipality or receiving in the municipality intrastate telecommunications by a person at a rate of 4.5% of the gross charge for the telecommunications purchased at retail from a retailer;
- (2) The act or privilege of originating in the municipality or receiving in the municipality interstate telecommunications by a person at a rate of 4.5% of the gross charge for the telecommunications purchased at retail from a retailer. To prevent actual multi-state taxation of the act or privilege that is subject to taxation under this division (B)(2), any taxpayer, upon proof that the taxpayer has paid a tax in another state on the 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 any other state which was not previously allowed as a credit against any other state or local tax in this state; and
- (3) The tax imposed by this subchapter is not imposed on any act or privilege to the extent the act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by the municipality.

(Ord. 3-2-B, passed 9-17-2003)

§ 31.63 COLLECTION OF TAX BY RETAILERS.

- (A) (1) The tax authorized by this subchapter shall be collected from the taxpayer by a retailer maintaining a place of business in this state and shall be remitted by the retailer to the Department.
- (2) Any tax required to be collected pursuant to or as authorized by this subchapter and any such tax collected by the retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the state.
- (3) 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.

- (4) The tax authorized by this subchapter 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 the sale at retail.
 - (5) 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 subchapter shall, when collected, be stated as a distinct item separate and apart from the gross charge for telecommunications.

(Ord. 3-2-B, passed 9-17-2003)

§ 31.64 RETURNS TO DEPARTMENT.

On or before the last day of February, 2004, and on or before the last day of every month thereafter, the tax imposed under this subchapter on telecommunication retailers shall be returned with appropriate forms and information as required by the Department pursuant to the State Simplified Municipal Telecommunications Tax Act (Pub. L. No. 92-526, being ILCS Ch. 35, Act 636, § 5-50) and any accompanying rules and regulations created by the Department to implement the Act.

(Ord. 3-2-B, passed 9-17-2003)

§ 31.65 RESELLERS.

- (A) (1) If a person who originates or receives telecommunications claims to be a reseller of the telecommunications, the person shall apply to the Department for a resale number.
 - (2) The applicant shall state any fact which will show the Department why the applicant is not liable for the tax authorized by this subchapter on any such purchases and shall furnish any additional information as the Department may reasonably require.
- (B) (1) Upon approval of the application, the Department shall assign a resale number to the applicant and shall certify the number to the applicant.
- (2) The Department may cancel any number which is obtained through misrepresentation, or which is used to send or receive any telecommunication tax-free when the 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 the person is nontaxable because of being a sale for resale.

(Ord. 3-2-B, passed 9-17-2003)

§ 31.66 EFFECTIVE DATE.

- (A) This subchapter shall be in full force and effect from and after its passage and approval and publication as required by law, provided, however, that the tax provided for herein shall take effect for all bills issued on or after 1-1-2004 and any amounts due or payable to the municipality for any tax periods ending prior to the 1-1-2004 shall nevertheless remain payable as if this subchapter had not been adopted.
- (B) Copies of this subchapter shall be certified and sent to the State Department of Revenue prior to 10-1-2003.
(Ord. 3-2-B, passed 9-17-2003)

MUNICIPAL RETAILERS' OCCUPATION TAX

§ 31.80 TAX IMPOSED.

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% of the gross receipts from the sales made in the course of the business while this subchapter is in effect, in accordance with the provisions of ILCS Ch. 65, Act 5.
(Ord. 3-1-C, passed 3-20-1974)

§ 31.81 REPORT TO BE FILED.

Every person engaged in any business in the Village shall file, on or before the last day of each calendar month, the report to the State Department of Revenue required by § 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 6-23-1933, as amended.
(Ord. 3-1-C, passed 3-20-1974)

§ 31.82 TAX TO BE PAID.

At the time the report is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed on account of the receipts from sales of tangible personal property during the preceding month.
(Ord. 3-1-C, passed 3-20-1974)

§ 31.83 EFFECTIVE DATE.

- (A) The Village Clerk is hereby directed to transmit to the State Department of Revenue a certified copy of this subchapter not later than five days after the effective date of this subchapter.
- (B) This subchapter shall be published within ten days of its enactment as provided in ILCS Ch. 65, Act 5, and shall be effective from and after 4-1-1974.
(Ord. 3-1-C, passed 3-20-1974)

MUNICIPAL UTILITY TAX

§ 31.95 UTILITY TAX FOR GAS AND ELECTRIC.

(A) *Tax imposed; municipal utility tax for gas.*

- (1) Pursuant to ILCS Ch. 65, Act 8, § 8-11-2 and any and all other applicable authority a tax shall be, and hereby is, imposed on all persons engaged in the following occupations or privileges: Persons engaged in the business of distributing, supplying, furnishing or selling gas for use or consumption within the corporate limits of the Village, and not for resale, at the rate of 5% of the gross receipts therefrom.
- (2) This tax is in addition to all other taxes, fees and other revenue measures imposed by the Village, the state or any other political subdivisions of the state.

(a) *Definitions.* For the purpose of the tax imposed by this division (A), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. ***GAS GROSS RECEIPTS.*** The consideration received for distributing, supplying, furnishing or selling of gas for use or consumption and not for resale, as the case may be, and for all services rendered in connection therewith valued in money, whether received in money or otherwise, including cash, credit, services and property of every land and material and for all services reached therewith; and shall be determined without any deduction on account of the cost of the service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expenses whatsoever. ***GROSS RECEIPTS*** shall not include any portion of the consideration where such consideration is exempt by statute and/or this Chapter.
2. ***PERSON.*** Any natural, individual, firm, trust, estate, partnership, association, joint stock company, joint venture corporation, limited liability company, municipal corporation, entity, or political subdivision of this state, or a receiver, trustee, conservator or other representative appointed by order of any court.
3. ***PERSON MAINTAINING A PLACE OF BUSINESS IN THIS STATE.*** Any person having or maintaining within this state, directly or by a subsidiary or other affiliate, an office, generation facility, distribution facility, transmission facility, sales office or other place of business, or any employee, agent, or other representative operating within this state under the authority of the person or its subsidiary or other affiliate, irrespective of whether such place of business or agent or other representative is located in this state permanently or temporarily or whether such person, subsidiary or other affiliate is licensed or qualified to do business in this state.
4. ***VILLAGE.*** The Village of Port Barrington, an Illinois municipal corporation.

(b) *Exceptions.*

1. Notwithstanding any other provision herein, the tax imposed by herein by this division (A) shall not be imposed if and to the extent that imposition or collection of the tax would violate the Constitution or Statutes of the United States or the Constitution or Statutes of the State of Illinois.

2. Any school district or unit of local government lying in whole or in part within the Village shall be exempted from the tax imposed in this division (A).
- (c) *Collection of taxes.* The collection and reporting of this tax will be as set forth in division (C)(3) below.
 - (d) *Books and records.* Every person collecting and/or paying the tax imposed by this Chapter shall keep accurate books and records of its business or activity, including contemporaneous books and records denoting the transactions that gave rise, or may have given rise, to any tax liability under this Chapter. The books and records shall be subject to and available for inspection at all times during business hours of the day.
 - (e) *Credits and refunds.*
 1. If it shall appear that an amount of tax has been paid which was not due under the provisions of this Chapter, whether as the result of a mistake of fact or an error of law, then such an amount shall be credited against any tax due, or to become due, under this Chapter from the person who made the erroneous payment.
 2. Notwithstanding any other provision of this Chapter, in order to permit sound fiscal planning and budgeting by the Village, no person shall be entitled to a refund of, or credit for, a tax imposed under this Chapter unless the person files a claim for refund or credit within one year after the date on which the tax was paid or remitted.

(B) *Tax imposed; municipal utility tax for electric.*

- (1) *Definitions.* For the purpose of the tax imposed by this division (B), the following definitions shall apply unless the context clearly indicates or requires a different meaning.
 - (a) **PERSON.** Any natural, individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, municipal corporation, the state or any of its political subdivisions, any state university created by statute, or a receiver, trustee, conservator or other representative appointed by order of any court.
 - (b) **PERSON MAINTAINING A PLACE OF BUSINESS IN THIS STATE.** Any person having or maintaining within this state, directly or by a subsidiary or other affiliate, an office, generation facility, distribution facility, transmission facility, sales office or other place of business, or any employee, agent, or other representative operating within this state under the authority of the person or its subsidiary or other affiliate, irrespective of whether such place of business or agent or other representative is located in this state permanently or temporarily or whether such person, subsidiary or other affiliate is licensed or qualified to do business in this state.
 - (c) **PURCHASE AT RETAIL.** Any acquisition of electricity by a purchaser for purposes of use or consumption, and not for resale, but shall not include the use of electricity by a public utility, as defined in ILCS Ch. 65, Act. 5, § 8-11-2, directly in the generation, production, transmission, delivery or sale of electricity.
 - (d) **PURCHASER.** Any person who uses or consumes, within the corporate limits of the Village, electricity acquired in a purchase at retail.

- (e) **TAX COLLECTOR.** The person delivering electricity to the purchaser.
- (f) **VILLAGE.** The Village of Port Barrington, an Illinois municipal corporation.

(2) *Tax imposed.*

- (a) Effective 9-1-2007, pursuant to ILCS Ch. 65, Act 5, § 8-11-2 and any and all other applicable authority, a tax is imposed upon the privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the Village at the following rates, calculated on a monthly basis for each purchaser:
 - 1. For the first 2,000 kilowatt-hours used or consumed in a month; 0.610 cents per kilowatt-hour;
 - 2. For the next 48,000 kilowatt-hours used or consumed in a month; 0.400 cents per kilowatt-hour;
 - 3. For the next 50,000 kilowatt-hours used or consumed in a month; 0.360 cents per kilowatt-hour;
 - 4. For the next 400,000 kilowatt-hours used or consumed in a month; 0.350 cents per kilowatt-hour;
 - 5. For the next 500,000 kilowatt-hours used or consumed in a month; 0.340 cents per kilowatt-hour;
 - 6. For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.320 cents per kilowatt-hour;
 - 7. For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.315 cents per kilowatt-hour;
 - 8. For the next 5,000,000 kilowatt-hours used or consumed in a month; 0.310 cents per kilowatt-hour;
 - 9. For the next 10,000,000 kilowatt-hours used or consumed in a month; 0.305 cents per kilowatt-hour;
 - 10. For all electricity consumed in excess of 20,000,000 kilowatt-hours in a month; 0.300 cents per kilowatt-hour.
- (b) This tax is in addition to all taxes, fees and other revenue measures imposed by the Village, the State of Illinois or any other political subdivision of the state.

(3) *Exceptions.*

- (a) Notwithstanding any other provision of this section, the tax shall not be imposed if and to the extent that imposition or collection of the tax would violate the Constitution or Statutes of the United States or the Constitution or Statutes of the State of Illinois.

- (b) Any school district or unit of local government lying in whole or in part within the Village shall be exempted from the tax imposed in this division (B).

(4) *Collection of taxes.*

- (a) Subject to the provision of division (B)(6) below regarding the delivery of electricity to resellers, the tax imposed under this section shall be collected from purchasers by the person maintaining a place of business in this state who delivers electricity to such purchasers. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and is recoverable at the same time and in the same manner as the original charge for delivering the electricity.
- (b) Any tax required to be collected by this section, and any tax in fact collected, shall constitute a debt owed to the Village by the person delivering the electricity, provided, that the person delivering electricity shall be allowed credit for such tax related to 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.
- (c) 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 3% of the tax they collected to reimburse them for their expenses incurred in keeping records, billing customers, preparing for filing returns, remitting the tax and supplying data to the Village upon request. For purposes of this section, any partial payment of a billed amount not specifically identified by the purchaser shall be deemed to be for the delivery of electricity.

(5) *Tax remittance and return.*

- (a) Every tax collector shall on a monthly basis file a return in a form prescribed by the Village. The return and accompanying remittance shall be due on or before the last day of the month following the month during which the tax is collected.
- (b) If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall file a return in a form prescribed by the Village and pay the tax directly to the Village on or before the last day of the month following the month during which the electricity is used or consumed.

(6) *Resales.*

- (a) Electricity that is delivered to a person in this Village shall be considered to be for use and consumption by that person unless the person receiving the electricity has an active resale number issued by the Village and furnishes that number to the person who delivers the electricity, and certifies to that person that the sale is either entirely or partially nontaxable as a sale for resale.
- (b) If a person who receives electricity in the Village claims to be an authorized reseller of electricity, that person shall apply to the Village for a resale number. The applicant shall state facts showing why it is not liable for the tax imposed by this section on any purchases of electricity and shall furnish such additional information as the Village may reasonably require.

- (c) Upon approval of the application, the Village shall assign a resale number to the applicant and shall certify the number to the applicant.
 - (d) The Village may cancel the resale number of any person if the person fails to pay any tax payable under this section for electricity used or consumed by the person, or if the number:
 - 1. Was obtained through misrepresentation; or
 - 2. Is no longer necessary because the person has discontinued making resale.
 - (e) If a reseller has acquired electricity partly for use or consumption and partly for resale, the reseller shall pay the tax imposed by this section directly to the Village pursuant to division (B)(5) above on the amount of electricity that the reseller uses or consumes, and shall collect the tax pursuant to division (B)(4) above and remit the tax pursuant to division (B)(5) above on the amount of electricity delivered by the reseller to a purchaser.
 - (f) Any person who delivers electricity to a reseller having an active resale number and complying with all other conditions of this section shall be excused from collecting and remitting the tax on a portion of the electricity delivered to the reseller, provided that the person reports to the Village the total amount of electricity delivered to the reseller, and such other information that the Village may reasonably require.
- (7) *Books and records.* Every tax collector, and every taxpayer required to pay the tax imposed by this section shall keep accurate books and records of its business or activity, including contemporaneous books and records denoting the transactions that gave rise, or may have given rise, to any tax liability under this section. The books and records shall be subject to and available for inspection at all times during business hours of the day.
- (8) *Credits and refunds.* Notwithstanding any other provision of this section, in order to permit sound fiscal planning and budgeting by the Village, no person shall be entitled to a refund of, or credit for, a tax imposed under this section unless the person files a claim for refund or credit within one year after the date on which the tax was paid or remitted.
- (C) *Application to both the gas and the electric utility taxes.*
- (1) *Exclusions; interstate commerce.* These taxes shall not include transactions of interstate commerce as contemplated by the Commerce Clause of the United States Constitution.
 - (2) *Taxes are additional.* These taxes shall be in addition to any compensation paid to the Village for use of streets, alleys or other public places for the installation and/or maintenance of poles, wires, pipes or other equipment used in the operation of taxpayers' business.
 - (3) *Reporting and payment of gas and electric utility taxes.* The reporting, payment and collecting of taxes for gas and electric as provided for in divisions (A) and (B) above shall be as follows, unless otherwise required by law or otherwise directed by the Village:
 - (a) The taxes imposed pursuant to divisions (A) and (B) above shall be based on the gross receipts, as herein defined, actually paid to the person, for services billed on a monthly basis. The person shall make a return to the Village for that month stating:

1. The company and/or individual's name;
 2. The principal place of business;
 3. The gross receipts collected during those months upon the basis of which tax is imposed;
 4. The amount of the tax due;
 5. Such other reasonable and related information as the Village may require.
- (b) On or before the last day of every month thereafter, a like return shall be provided to the Village Clerk for the preceding month accompanied by the amount of tax herein imposed, provided that an amount based upon total billings during the period for which the return is made (exclusive of any amounts previously billed), may be made with adjustments of later payments based upon any differences between such billings and the taxable gross receipts to follow.
- (c) The dates of reporting and making monthly payment shall also be on such other dates as the Village may direct from time to time or as applicable law may require.
- (4) *Reports to Illinois Commerce Commission, if required.* If reports are required to be filed with the Illinois Commerce Commission, all persons subject to this tax shall also provide the Village Clerk with a copy of such utilities annual report filed with the Illinois Commerce Commission within ten days of the date such report is required to be filed with the Illinois Commerce Commission.
- (5) *Payments made in error.* If it shall appear that an amount of tax has been paid which was not due under the provisions of this section, whether payment was a result of a mistake of fact or law, the amount paid shall be credited against any tax due or to become due to this taxpayer. However, no amounts erroneously paid more than one year prior to the filing of the claim shall be so credited.
- (6) *Limitation of action.* No action to recover any amount of tax due under the provisions of this section shall be commenced more than one year after the due date of such payment.
- (7) *Violation of section.* Any taxpayer who fails to make or file a return as set forth in this section or who makes a fraudulent return or willfully violates any other provision of this section is guilty of a petty offense and upon conviction shall be subject to the penalties as set forth in § 10.99 of the Village Code and, in addition, shall be liable in a civil action for the amount of the tax. Each day a violation of any provision of this section continues shall be deemed a separate offense.
- (8) *Copies of section to be sent to utilities affected.* The Village Clerk shall send a certified copy of this section to the utilities that will be affected by this tax. Changes from the current gas and electric utility taxes as set forth in this section shall take effect 30 days after the affected utility company is sent a certified copy of this section from the Village Clerk and shall apply to the next billing period after said 30 days. Until this section takes effect, the current gas and electric utility tax ordinance shall apply.

(Ord. 3-2-A, passed 5-19-2010)