

## Chapter 20

### TAXATION

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#### ARTICLE I. IN GENERAL

##### **Sec. 20-1. Special tax for police protection.**

A special tax is hereby imposed for the purpose of police protection in this Village at the rate of .05 percent of the value, as equalized or assessed by the Department of Revenue of all the taxable property therein for the first year in which this tax is levied, and at a rate of .075 percent of the value as equalized or assessed by the Department of Revenue for all taxable property therein, in all succeeding years, all in accordance with the provisions of State law. (Ord. of 8-25-69, Sec. 1)

State law reference--Special tax for police protection authorized, 65 ILCS 5/11-1-3

##### **Sec. 20-2. School crossing guards tax.**

A special tax is hereby imposed for the purpose of employing and compensating school crossing guards in this Village at a rate not to exceed .02 percent of the full, fair cash value, as equalized or assessed by the Department of Revenue, of all taxable property therein, all in accordance with the provisions of State law. (Ord. of 8-25-69, Sec. 1)

State law reference--School crossing guards tax authorized, 65 ILCS 5/11-80-23

##### **Sec. 20-3. Reserved (Ord. No. 94-11, Sec. 1, 3-17-94)**

##### **Sec. 20-4. Municipal auditing tax.**

(a) A special tax is hereby imposed for the purpose of the auditing and investigating of public accounts upon all of the taxable property in the Village at the rate on the dollar which will produce an amount which will equal a sum sufficient to meet the cost of all auditing and reports, all in accordance with the provisions of State law.

(b) The municipal auditing tax shall be held in a special fund and used for no other purpose than payment of expenses occasioned by such auditing and investigation expense. (Ord. of 8-25-69, Sec. 1, 2)

State law reference--Municipal auditing tax authorized, 65 ILCS 5/8-8-8

##### **Sec. 20-5. Appropriations and tax for civil defense purposes.**

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The Village Board of Trustees may make an appropriation for civil defense purposes in the manner provided by law, and may levy in addition for civil defense purposes only, a tax not to exceed five (\$0.05) cents per one hundred (\$100.00) dollars of the assessed value of all taxable property in addition to all other taxes, as provided by the Illinois Emergency Management Agency Act, as amended. (Ord. of 7-1-69, Sec. 12)

Cross reference--Civil defense, Ch. 7.

State law reference--For similar provisions, see 65 ILCS 5/8-3-16

**Secs. 20-6--20-15. Reserved.**

### **ARTICLE II. MUNICIPAL RETAILERS OCCUPATION TAX\***

**Sec. 20-16. Imposed; taxable basis; rate.**

A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property at retail in the Village at the rate of one (1%) percent of the gross receipts from such sales made in the course of such business. (Ord. of 9-8-69, Sec. 1)

**Sec. 20-17. Tax returns to be made to state; due date.**

Every person engaged in the business of selling tangible personal property 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 State law. (Ord. of 9-8-69, Sec.2)

State law reference--Retailer's tax returns, 35 ILCS 120/3

**Sec. 20-18. Remittance of taxes to state.**

At the time the monthly report is filed, there shall be paid to the State Department of Revenue the amount of tax imposed by the Village on account of the receipts from sales of tangible personal property during the preceding month. (Ord. of 9-8-69, Sec. 3)

**Secs. 20-19--20-29. Reserved.**

### **ARTICLE III. MUNICIPAL SERVICE OCCUPATION TAX\*\***

**Sec. 20-30. Imposed; basis; rate.**

A tax is hereby imposed upon all persons engaged in the Village in the business of making sales of service at the rate of one (1%) percent of the cost price of all tangible personal property transferred by said servicemen either in the form of tangible personal property or in the form of real estate as an

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\* State law references - Authority of village to impose retailer's occupation tax and procedure for collection generally, 65 ILCS 5/8-11-1.3 Retailer's Occupation Tax Act, 35 ILCS 120/1 et seq.

\*\* State law references - Authority of village to impose service occupation tax and procedure generally, 65 ILCS 5/8-11-1.4; Service Occupation Tax Act, 35 ILCS 115/1 et seq.

incident to a sale of service. (Ord. of 9-8-69, Sec. 1)

**Sec. 20-31. Monthly return to be made to state; due date.**

Every supplier or serviceman required to account for municipal service occupation tax for the benefit of the Village shall file, on or before the last day of each calendar month, the report to the State Department of Revenue required by State law. (Ord. of 9-8-69, Sec. 2)

State law reference--Reporting requirements generally, 35 ILCS 115/9

**Sec. 20-32. Payment of tax to state.**

At the time such report required by this Article is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed. (Ord. of 9-8-69, Sec. 3)

**Secs. 20-33--24-39. Reserved.**

**ARTICLE IV. MUNICIPAL UTILITIES TAX**

**Sec. 20-40. Tax imposed; amount.**

A tax is imposed on all persons engaged in the following occupations or privileges:

- (a) Persons engaged in the business of transmitting messages by means of electricity or radio magnetic waves, or fiber optics at a rate not to exceed five (5%) percent of the gross receipts from such business originating within the corporate limits of Fox River Grove, Illinois. (Ord. No. 97-07, 3-20-97)
- (b) Persons engaged in the business of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of Fox River Grove, Illinois, and not for resale, at the rate of five (5%) percent of the gross receipts therefrom.
- (c) Persons engaged in the business of distributing, supplying, furnishing, or selling electricity for use or consumption within the corporate limits of Fox River Grove, Illinois, and not for resale, at the rate of five (5%) percent of the gross receipts therefrom, provided that the tax imposed pursuant to this Subsection (c) shall not apply with respect to gross receipts from the distribution, supply, furnishing or sale of electricity where the use or consumption of the electricity is subject to the tax imposed pursuant to Article V "Municipal Electric Utility Tax" of this Chapter 20. (Ord. No. 76-07, Sec. 1, 5-24-76; Ord. No. 78-10, Sec. 1, 7-19-78; Ord. No. 82-20, Sec. 1, 11-17-82, Ord. No. 98-25, Sec. 1, 6-18-98)

**Sec. 20-41. Exemptions.**

No tax is imposed by this Article with respect to any transaction in interstate commerce or otherwise to the extent to which such business may not, under the Constitution and Statutes of the United States, be made subject to taxation by this State or any political subdivision thereof; nor shall any person engaged in the business of distributing, supplying, furnishing or selling gas, or electricity, or engaged

in the business of transmitting messages be subject to taxation under the provisions of this Article for such transactions as are or may become subject to taxation under the provisions of the "Municipal Retailers' Occupation Tax Act" authorized by 65 ILCS 5/8-11-1.3, as amended. Further, no tax is imposed by this Article with respect to any transaction with or sale to the Village of Fox River Grove, Illinois, a municipal corporation. (Ord. No. 76-07, Sec. 1, 5-24-76; Ord. No. 78-04, Sec. 1, 2-15-78)

**Sec. 20-42. Tax additional to other charges.**

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 use of its streets, alleys, or other public places, or installation and maintenance therein, thereon or thereunder of poles, wires, pipes or other equipment used in the operation of the taxpayer's business. (Ord. No. 76-07, Sec. 1, 5-24-76)

**Sec. 20-43. Definitions.**

For the purposes of this Article the following definitions shall apply:

- (1) *Gross receipts* means the consideration received for the transmission of messages, or distributing, supplying, furnishing or selling gas, or electricity for use or consumption and not for resale, as the case may be; and for all services rendered in connection therewith valued in money, whether received in money or otherwise, including cash, credit, services and property of every kind and material and for all services rendered therewith; and shall be determined without any deduction on account of the cost of transmitting said messages without any deduction on account of the cost of the service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expenses whatsoever.
- (2) *Transmitting messages* in addition to the usual and popular meaning of person to person communication, shall include the furnishing, for a consideration, of services or facilities (whether owned or leased), or both, to persons in connection with the transmission of messages where such persons do not, in turn, receive any consideration in connection therewith; but shall not include such furnishing of services or facilities to persons for the transmission of messages to the extent that any such services or facilities for the transmission of messages are furnished for a consideration by such persons to other persons, for the transmission of messages.
- (3) *Person* means natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, municipal corporation or political subdivision of this State, or receiver trustee, conservator or other representative appointed by order of any court. (Ord. No. 76-07, Sec. 1, 5-24-76)

**Sec. 20-44. Period of taxation.**

This Article shall be in effect upon date of passage and the tax provided herein shall be based on the gross receipts, as herein defined, actually paid to the taxpayer for services billed on or after the 1st day of August, 1976. (Ord. No. 76-07, Sec. 1, 5-24-76)

**Sec. 20-45. Return to taxpayer.**

- (a) On or before the last day of June 1997, each taxpayer shall prepare and transmit to the Collector of the Village of Fox River Grove a report or return covering the month of April, 1997, stating the following:
- (1) Name of taxpayer;
  - (2) Principal place of business of taxpayer;
  - (3) Gross receipts of taxpayer during the month covered by the report or return, upon which tax imposed hereunder is based;
  - (4) Amount of tax;
  - (5) Such other reasonable and related information as the Village may require.
- (b) Thereafter, for each month, beginning with May, 1997, each taxpayer shall make a like return covering the month. The return or report shall be transmitted to the Collector of the Village of Fox River Grove not more than sixty (60) days after the last day of such month.
- (c) The taxpayer making the return or report shall at the time of transmitting such return or report to the Village Collector, pay to the Village Collector of the Village of Fox River Grove, the amount of tax imposed hereunder; provided that in connection with any return the taxpayer may, at the taxpayer's election, report and pay an amount based upon the 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 bills and the taxable receipts. (Ord. No. 97-07, 3-20-97)

**Sec. 20-46. Overpayment.**

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. (Ord. No. 76-07, Sec. 1, 5-24-76)

**Sec. 20-47. Limitation on actions to collect tax.**

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. (Ord. No. 76-07, Sec. 1, 5-24-76)

**Sec. 20-48. Penalty.**

Any taxpayer who fails to make a return as herein required, or who makes a fraudulent return, or who willfully violates any other provision of this Article, is guilty of a misdemeanor and, upon conviction,

shall be punished by a fine of not less than two hundred (\$200.00) dollars nor more than five hundred (\$500.00) dollars for each offense, and in addition thereto shall be liable in a civil action for the amount of the tax due. (Ord. No. 76-07, Sec. 1, 5-24-76)

**Sec. 20-49. Application of the Village of Fox River Grove Telecommunications Tax to this Article.**

The tax imposed pursuant to Section 20-40 (a) upon persons engaged in the business of transmitting messages by means of electricity at the rate of five (5%) percent of the gross receipts from such business originating within the corporate limits of the Village, shall not be imposed during such time as Article V “Municipal Telecommunications Tax” of Chapter 20 of this Code and the tax imposed pursuant to Article V of Chapter 20 of this Code are in full force and effect. (Ord. No. 97-42. Sec. 1, 11-20-97)

**ARTICLE V. MUNICIPAL TELECOMMUNICATIONS TAX**

**Sec. 20-55.**

The tax imposed by this Ordinance shall be known as the “Village of Fox River Grove Telecommunications Tax” and is imposed in addition to all other taxes imposed by the Village of Fox River Grove, the State of Illinois or any other municipal corporation or political subdivision thereof. (Ord. No. 97-41, Sec. 1, 11-20-97)

**Sec. 20-56 Definitions.**

For the purposes of this Article:

*Village* means the Village of Fox River Grove, Illinois.

*Village Finance Director* means the Village Finance Director.

*Amount paid* means the amount charged to the taxpayer’s service address located in the Village regardless of where such amount is billed or paid.

*Gross charge* means the amount paid for the act or privilege of originating or receiving telecommunications in the Village and for all services rendered in connection therewith, valued 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 charge” shall not include:

- (a) any amounts added to a purchaser’s bill because of a charge made pursuant to:
  - (1) the tax imposed by this Article;
  - (2) additional charges added to a purchaser’s bill pursuant to Section 9-222 of the

Illinois Public Utilities Act, 220 ILCS §5/9-222;

- (3) the tax imposed by the Illinois Telecommunications Excise Tax Act, 35 ILCS §630/1 et seq., or
  - (4) the tax imposed by Section 4251 of the U.S. Internal Revenue Code, 26 USC §4251;
- (b) charges for a sent collect telecommunication received outside of the Village;
  - (c) 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 and accounting equipment and also includes the usage of computers under a time-sharing agreement;
  - (d) 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;
  - (e) charges to business enterprises certified under Section 9-222.1 of the Illinois Public Utilities Act, 220 ILCS 5/9-222.1, to the extent of such exemption and during the period of time specified by the Illinois Department of Commerce and Community Affairs;
  - (f) 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 Ordinance 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;
  - (g) bad debts; provided however, that if any portion of a debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion of the debt paid during the reporting period; or
  - (h) charges paid by inserting coins in coin-operated telecommunication devices.

*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 by applicable Federal Income Tax Standards.

*Interstate telecommunications* means all telecommunications that either originate or terminate outside the State of Illinois.

*Intrastate telecommunications* means all telecommunications that originate and terminate within the

State of Illinois.

*Person* means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, any receiver, trustee, guardian or other representative appointed by order of any court, the Federal government, State governments, state universities created by statute, or any city, town, county or other political subdivision of the State of Illinois.

*Purchase at retail* means the acquisition, consumption or use of telecommunications through a sale at retail.

*Retailer* means and includes every person engaged in the business of making sales at retail as defined in this Article.

*Retailer maintaining a place of business in this state*, or any like designation, means and includes any retailer having or maintaining within the State of Illinois, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse or other place of business, or any agent or other representative operating within the State of Illinois 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 the State of Illinois.

*Sale at retail* means the transmitting, supplying or furnishing of telecommunications and all services rendered in connection therewith for a consideration:

- (a) to persons other than the Federal and State governments, and State universities created by statute; and
- (b) other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the tax has already been paid to a retailer and the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for resale.

*Service address* means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received by a taxpayer. If this is not a defined location, as in the case of mobile phones, paging systems, maritime systems, air-to-ground systems and the like, "service address" shall mean the location of a taxpayer's primary use of the telecommunication equipment as defined by telephone number, authorization code or location in Illinois where bills are sent.

*Taxpayer* means a person who individually or through his agents, employees or permittees, engages in the act or privilege of originating or receiving telecommunications in the Village and that incurs a tax liability under this Article.

*Telecommunications*, in addition to the usual and popular meaning, includes, but is not limited to, messages or information transmitted through use of local, toll and wide area telephone service, channel services, telegraph services, teletypewriter services, computer exchange services, cellular

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mobile telecommunications service, specialized mobile radio services, 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. The definition of "Atelecommunications" 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 the purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by it to the ultimate retail consumer who originates or terminates the taxable end-to-end charges, charges for use of inter-company facilities, and all telecommunications resold in the subsequent provision used as a component of, or integrated into, end-to-end telecommunications service shall be non-taxable as sales for resale. (Ord. No. 97-41, Sec. 1, 11-20-97)

### **Sec. 20-57. Tax imposed.**

- (a) Effective on and after January 1, 1998, a tax is hereby imposed upon:
  - (1) The act or privilege of originating in the Village or receiving in the Village intrastate telecommunications by a person at a rate of five (5%) percent of the gross charge for such telecommunications purchased at retail from a retailer by such person; and
  - (2) The act or privilege of originating in the Village or receiving in the Village interstate telecommunications by a person at a rate of five (5%) percent of the gross charge for such telecommunications purchased at retail from a retailer by such person.
- (b) To prevent actual multi-state taxation of the act or privilege that is subject to taxation under Subsection (a)(2) of this Section, any taxpayer, upon proof that the taxpayer has paid a tax in another state on such event, shall be allowed a credit against the tax authorized by Subsection (a)(2) to the extent of the amount of such tax properly due and paid in such other state which was not previously allowed as a credit against any other state or local tax in Illinois.
- (c) The tax imposed by this Section 20-57 is not imposed on any act or privilege to the extent that such act or privilege may not, under the Constitution or Statutes of the United States, be made the subject of taxation by the Village.
- (d) Carrier access charges, right of access charges, charges for use of inter-company facilities and all telecommunications resold in the subsequent provision used as a component of, or integrated into end-to-end telecommunications service are sales for resale and are not subject to the tax imposed by this section. (Ord. No. 97-41, Sec. 1, 11-20-97)

### **Sec. 20-58. Collection of tax by retailers.**

- (a) (1) Any retailer maintaining a place of business in Illinois and making or effecting a sale at retail shall collect the tax imposed by this Article from the taxpayer and remit it to the Village Finance Director as provided by Section 20-59 of this Code.

- (2) Any tax required to be collected pursuant to this Article and any tax collected by the retailer shall constitute a debt owed by the retailer to the Village.
  - (3) The retailer 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 this Article.
  - (4) The tax authorized by this Article shall constitute a debt of the purchaser to the retailer providing taxable services until paid and, if unpaid, is recoverable at law in the same manner as the original charge for taxable services.
  - (5) If the retailer fails to collect the tax from a taxpayer, the taxpayer shall pay the tax directly to the Village as provided in Section 20-61 of this Code.
- (b) The Village Finance Director shall, upon application, authorize the collection of this tax by any retailer not maintaining a place of business in Illinois who, to the satisfaction of the Village Finance Director, furnishes adequate security to ensure collection and payment of the tax. Such retailer shall be issued, without charge, a permit to collect the tax imposed by this Article. When so authorized, it shall be the duty of the retailer to collect the tax upon all of the gross charges for telecommunications originated or received in the Village in the same manner, and subject to the same requirements, as a retailer maintaining a place of business in Illinois.
- (c) 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. (Ord. No. 97-41, Sec. 1, 11-20-97)

**Sec. 20-59. Filing returns and remittance by retailers.**

On or before the last day of each calendar month, every retailer maintaining a place of business in the State of Illinois and every retailer authorized by the Village Finance Director to collect the tax imposed by this Article shall file with the Village Finance Director a remittance return and remit all applicable tax for the preceding calendar month. The return shall be filed on a form prescribed by the Village Finance Director, containing such information as he may reasonably require. (Ord. No. 97-41, Sec. 1, 11-20-97)

**Sec. 20-60. Registration.**

Every retailer maintaining a place of business in Illinois shall register with the Village Finance Director within thirty (30) days after the effective date of this Article or the date of becoming such a retailer, whichever is later. (Ord. No. 97-41, Sec. 1, 11-20-97)

**Sec. 20-61. Obligation of taxpayers to file returns and pay tax.**

- (a) If a retailer fails to collect the tax imposed by this Article from a taxpayer, as required by Section 20-59, then the taxpayer shall pay the tax directly to the Village Finance Director.
- (b) On or before the last day of each calendar month, every taxpayer that has not paid the tax imposed by this Article to a retailer, shall file with the Village Finance Director a tax return and pay the tax upon the gross charges the taxpayer paid to the retailer during the preceding calendar month. The return shall be filed on a form prescribed by the Village Finance Director, containing such information as he or she may reasonably require. (Ord. No. 97-41, Sec. 1, 11-20-97)

**Sec. 20-62. Resale numbers.**

- (a) If a person who originates or receives telecommunications in the Village claims to be a reseller of telecommunications, that person shall apply to the Village Finance Director for a resale number. The applicant shall state facts showing why it is not liable for the tax imposed by this Article on any purchases of telecommunications and shall furnish such additional information as the Village Finance Director may reasonably require.
- (b) Upon approval of the application, the Village Finance Director shall assign a resale number to the applicant and shall certify the number to the applicant.
- (c) The Village Finance Director may cancel the resale number of any person if the number:
  - (1) was obtained through misrepresentation;
  - (2) is used to originate or receive telecommunications tax-free when such telecommunications are not for resale; and
  - (3) is no longer necessary because the person has discontinued making resales.
- (d) The act or privilege of originating or receiving telecommunications in the Village shall not be made tax-free on the ground of being a sale for resale unless the person has an active resale number issued by the Village Finance Director and furnishes that number to the retailer in connection with certifying to the retailer that a sale is nontaxable as a sale for resale. (Ord. No. 97-41, Sec. 1, 11-20-97)

**Sec. 20-63. Maintaining books and records.**

Every retailer maintaining a place of business in Illinois, every retailer authorized by the Village Finance Director to collect the tax imposed by this Article and every taxpayer required by Section 20-61 of this Code to pay the tax directly to the Village Finance Director shall keep accurate books and records of its business or activity, including original source documents and books of entry denoting the transactions that gave rise, or may have given rise, to any tax liability or exemption. All such books and records shall be kept in the English language and, at all times during business hours of the

day, shall be subject to and available for inspection by the Village Finance Director or his duly designated agent. (Ord. No. 97-41, Sec. 1, 11-20-97)

**Sec. 20-64. Status of Illinois Municipal Code, Section 8-11-17.**

In the event that Section 8-11-17 of the Illinois Municipal Code, 65 ILCS 5/8-11-17, is repealed, or becomes ineffective for any reason, Section 20-40(a) of this Code, declared to be ineffective in favor of this Article, shall be deemed to be in full force and effect as of the date Section 8-11-17 is repealed or otherwise becomes ineffective. (Ord. No. 97-41, Sec. 1, 11-20-97)

**Sec. 20-65: Liability for cost of collection.**

In addition to any tax or penalty that may be owed, a taxpayer who fails to pay the tax imposed by Section 20-57 of this Code as provided in this Article and a retailer who fails to remit funds collected pursuant to the tax imposed by Section 20-58 of this Code as provided in this Article, shall also be liable for and shall pay to the Village any costs, including, but not limited to attorneys fees, incurred by or on behalf of the Village in collecting any amounts due to the Village. (Ord. No. 97-41, Sec. 1, 11-20-97)

**ARTICLE VI. MUNICIPAL ELECTRICAL UTILITY TAX**

**Sec. 20-66. Definitions**

As used in this Article, unless the context otherwise requires:

- (a) *Person* means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, 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) *Persons maintaining a place of business in this State* means any person having or maintaining within the State of Illinois, directly or by a subsidiary or other affiliate, an office, generation facility, distribution facility, transmission facility, sales office or other place of business, or any employee, agent, or other representative operating within the State of Illinois under the authority of the person or its subsidiary or other affiliate, irrespective of whether such place of business or agent or other representative is located in the State of Illinois permanently or temporarily, or whether such person, subsidiary or other affiliate is licensed or qualified to do business in the State of Illinois.
- (c) *Purchase at retail* means 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 Section 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-2), directly in the generation, production, transmission, delivery or sale of electricity.
- (d) *Purchaser* means any person who uses or consumes, within the corporate limits of the Village, electricity acquired in a purchase at retail.

- (e) *Tax collector* means the person delivering electricity to the purchaser. (Ord. No. 98-25, Sec. 2, 6-18-98)

**Sec. 20-67. Tax Imposed.**

- (a) Pursuant to Section 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-2) and any and all other applicable authority, and subject to the provisions of this Section 20-67, 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:
- (i) For the first 2,000 kilowatt-hours used or consumed in a month; 0.562 cents per kilowatt-hour;
  - (ii) For the next 48,000 kilowatt-hours used or consumed in a month; 0.369 cents per kilowatt-hour.
  - (iii) For the next 50,000 kilowatt-hours used or consumed in a month; 0.332 cents per kilowatt-hour;
  - (iv) For the next 400,000 kilowatt-hours used or consumed in a month; 0.323 cents per kilowatt-hour;
  - (v) For the next 500,000 kilowatt-hours used or consumed in a month; 0.313 cents per kilowatt-hour;
  - (vi) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.295 cents per kilowatt-hour;
  - (vii) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.290 cents per kilowatt-hour;
  - (viii) For the next 5,000,000 kilowatt-hours used or consumed in a month; 0.286 cents per kilowatt-hour;
  - (ix) For the next 10,000,000 kilowatt-hours used or consumed in a month; 0.281 cents per kilowatt-hour; and
  - (x) For all electricity used or consumed in excess of 20,000,000 kilowatt-hours in a month; 0.276 cents per kilowatt-hour.

The tax rates set forth in this Section 20-67 (a) are proportional to the rates enumerated in Section 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-2) as modified by Public Act 90-561 and do not exceed the rates which the Village is authorized to impose pursuant to Section 8-11-2 of the Illinois

Municipal Code as modified by Public Act 90-561.

- (b) Pursuant to Section 8-11-2 of the Illinois Municipal Code, the rates set forth in Section 20-67(a) shall be effective: (1) on August 1, 1998 for residential customers; and (2) for nonresidential customers, on the earlier of (a) the last bill issued on or after January 1, 2001, or (b) the date of the first bill issued pursuant to Section 16-104 of the Illinois Public Utilities Act (200 ILCS 5/16-104). (Ord. No. 98-33, Sec. 1, 8-20-98)
- (c) The tax imposed pursuant to Section 20-67(a) 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 of Illinois.
- (d) Notwithstanding any other provisions of this Article, the tax imposed by Section 20-67(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 an applicable Statute of the State of Illinois.
- (e) The tax imposed by Section 20-67(a) shall not be imposed with respect to any purchase at retail of electricity by the Village. (Ord. No. 98-25, Sec. 2, 6-18-98)

**Sec. 20-68. Collection of Tax**

- (a) Subject to the provisions of Section 20-69 regarding the delivery of electricity to resellers, the tax imposed under this Article shall be collected from purchasers by the person maintaining a place of business in the State of Illinois who delivers electricity to such purchasers. The 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 Article, and any tax in fact collected, shall constitute a debt owed to the Village by the person delivering the electricity, provide 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 as provided in Section 20-70.
- (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 as provided in Section 8-11-2(c) of the Illinois Municipal Code (65 ILCS 5/8-11-2 (c)) to add to such gross charge an amount equal to three (3%) percent of the tax they collect to reimburse person delivery electricity for the expenses incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the Village upon request. For purposes of this Article, any partial payment of a billed amount not specifically identified by the purchaser shall be deemed to be for the delivery of electricity. (Ord. No. 98-25, Sec. 2, 6-18-98)

**Sec. 20-69. Resales.**

- (a) Electricity that is delivered to a person in the 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 Article 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 Article 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 resales.
- (e)
  - (1) If a reseller has acquired electricity partly for use or consumption and partly for resale, the reseller shall pay the tax imposed by this Article directly to the Village pursuant to this Article on the amount of electricity that the reseller uses or consumes, and shall collect and remit the tax pursuant to this Article on the amount of electricity delivered by the reseller to a purchaser.
  - (2) Any person who delivers electricity to a reseller having an active resale number and complying with all other conditions of the section shall be excused from collecting and remitting the tax in any 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. (Ord. No. 98-25, Sec. 2, 6-18-98)

**Sec. 20-70. Returns and remittance of the tax to Village.**

- (a) Each person required by Section 20-68 to collect the tax imposed pursuant to Section 20-67(a) shall file a return with the Village on the last day of the month following each month covered during which the tax imposed by Section 20-67(a) is collected or is required to be collected under this Article. The return shall state:
  - (i) The person's name.
  - (ii) The address of the person's principal place of business in the State of Illinois or residence if the person filing the return is a natural person.

- (iii) The month for which the return is being filed.
  - (iv) The total number of kilowatt-hours of electricity used or consumed in each of the categories set forth in Section 20-67(a) (i) - (x), inclusive, for which the person was required to collect payment of the imposed by Section 20-67(a) from purchasers during the month covered by the return, and if different, the total number of kilowatt-hours of electricity used or consumed in each of the categories set forth inn Section 20-67(a) for which the person in fact collected payment from purchasers of the tax imposed by Section 20-67(a).
  - (v) The amount of the tax imposed by Section 20-67(a) which was collected and the amount of the tax being remitted to the Village with the return.
  - (vi) Such other reasonable and related information as the Village may require.
- (b) Each person filing a return provided for in this Section 20-70 shall, at the time the return is filed, remit and pay over to the Village the amount of the tax imposed pursuant to Section 20-67(a) which such person collected during the month for which the return is being filed. Such person shall also remit and pay over to the Village, at the time the return is filed, any other amounts of the tax imposed pursuant to Section 20-67(a) which, as of the end of the month for which the return is being filed, otherwise constituted a debt owed to the Village by the person pursuant to Section 20-68 (b).
- (d) The Village Administrator may prescribe the form of the return or authorize the use of a form for the return required to be filed by this Section 20-70.
- (d) If the person delivering electricity to a purchaser fails to collect the tax imposed pursuant to Section 20-67(a) from the purchaser, the purchaser shall file a purchaser's tax return with the Village containing the information set forth in Section 20-70(a)(i)(ii) and (iii). The purchaser's tax return shall also state the amount of electricity used or consumed during the month for which the return is being filed according to the categories set forth in Section 20-67 (a)(i) - (x), inclusive and the amount of the tax imposed on the electricity used or consumed by the purchaser during the month for which the return is being filed. Payment of the amount of the tax imposed shall be made to the Village at the time the purchaser's tax return is filed. The purchaser's tax return shall be filed no later than the last day of the month following the month for which the return is being made. (Ord. No. 98-25, Sec. 2, 6-18-98)

**Sec. 20-71. Books and records.**

Every person required by Section 20-68 to collect the tax imposed by Section 20-70(d) to file a purchaser's tax return 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 Article. The books and records shall be subject to and available for inspection at all times during business hours of the day. (Ord. No. 98-25, Sec. 2, 6-18-98)

**Sec. 20-72. Credits and overpayment refunds.**

Notwithstanding any other provision in this Article, in order to permit sound fiscal planning and budgeting by the Village, no person shall be entitled to a refund of, or overpayment credit for, a tax imposed under this Article unless the persons files a claim for refund or credit within one (1) year. (Ord. No. 98-25, Sec. 2, 6-18-98)

**Sec. 20-73. Penalty**

Any person who fails to file a return and remit payment of the tax imposed pursuant to Section 20-67(a) as required by Section 20-70, or who makes a fraudulent return, or who willfully violates any other provisions of this Article, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than two hundred (\$200.00) dollars nor more than five hundred (\$500.00) dollars for each offense and in addition thereto shall be liable in a civil action for the amount of the tax due. Each day that a violation continues to exist or occur shall constitute a separate offense for which a separate fine may be imposed. (Ord. No. No. 98-25, Sec. 2, 6-18-98)

**ARTICLE VII.           LOCALLY IMPOSED AND ADMINISTERED TAXES  
TAXPAYERS' RIGHTS AND RESPONSIBILITIES**

**Sec. 20-75. Scope.**

The provisions of this Article VII shall apply to the Village's procedures in connection with all of the Village's locally imposed and administered taxes. (Ord. No. 00-58, Section 1, 12-21-2000)

**Sec. 20-76. Definitions.**

Certain words or terms contained in this Article VII shall have the meaning ascribed to them as follows:

*"Act"* means the "Local Government Taxpayers' Bill of Rights Act." (50 ILCS 45/1 *et.seq.*)

*"Corporate Authorities"* means the Village's President and Board of Trustees.

*"Locally imposed and administered tax" or "tax"* means each tax imposed by the Village that is collected or administered by the Village, itself, rather than an agency or department of the State of Illinois. "Locally imposed and administered tax" or "tax" does not include any taxes imposed upon real property under the Property Tax Code or fees collected by the Village other than infrastructure maintenance fees.

*"Local tax administrator"* means the Village's Administrator. The local tax administrator 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

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of this Article VII so as to give full effect to this Article VII. The manner of the exercise of such authority by the local tax administrator shall not be inconsistent with the provisions of this Article VII or the provisions of the Act.

“*Village*” means the Village of Fox River Grove, Illinois.

“*Notice*” means each audit notice, collection notice or other similar notice or communication in connection with each of the Village’s locally imposed and administered taxes.

“*Tax Ordinance*” means each Ordinance adopted by the Village or provision of this Code that imposes a locally imposed and administered tax. “*Controlling Tax Ordinance*” means the Village Ordinance or provision of this Code that imposes a particular locally imposed and administered tax.

“*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 or privilege taxes includes a business or entity required to collect and pay or remit the locally imposed and administered tax to the Village. (Ord. No. 00-58, Section 1, 12-21-2000)

### **Sec. 20-77. 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:

- (1) First class or express U.S. Mail, or by an overnight delivery service, addressed to the persons concerned at the persons’ last known address, or
  - (2) Personal service or delivery.
- (Ord. No. 00-58, Section 1, 12-21-2000)

### **Sec. 20-78. 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. Mail postmark dated on or before the due date, properly addressed to the Village, with adequate postage prepaid. (Ord. No. 00-58, Section 1, 12-21-2000)

### **Sec. 20-79. Payment.**

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Any payment or remittance received for a tax period shall be applied in the following order: (1) first, to the interest due, if any, for the applicable period; (2) second, to the tax due for the applicable period; and (3) third, to the penalty for the applicable period. (Ord. No. 00-58, Section 1, 12-21-2000)

### **Sec. 20-80. Certain Credits and Refunds.**

- (a) In the event that a locally imposed and administered tax is declared to have been invalidly enacted or is declared to be unconstitutional by a court of competent jurisdiction, the Village shall not refund or credit any taxes voluntarily paid unless a written protest is made at the time of payment. 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 payment of a tax at the time of payment or if the taxpayer paid the tax under duress.
- (b) Any claim made by a taxpayer for a credit or refund arising from the payment to the Village of a tax, must be received by the Village not more than two (2) years after the end of the calendar year in which payment in error was made. The Village shall not grant a credit or refund of locally imposed and administered taxes, interest, or penalties to a person who has acted only as a collector of the tax, unless there is in place a procedure that provides reasonable assurance that the amount of the credit or refund shall be paid over to the person or persons who actually paid the tax. The Village shall not grant a credit or refund of a tax to a person who has not paid or remitted 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:
  - (i) 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 a canceled check or receipt for the payment or other proof of payment;
    - (d) if applicable, 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 Village.

- (ii) Within twenty-one (21) 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.
- (iii) 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 (6%) percent 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. (Ord. No. 00-58, Section 1, 12-21-2000)

**Sec. 20-81. Audit Procedure.**

Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this Article VII.

- (a) Each notice of audit shall contain the following information:
  - (i) the tax;
  - (ii) the time period of the audit;
  - (iii) a brief description of the books and records to be made available for the auditor; and
  - (iv) a date and time not less than twenty-one (21) days from the date of the notice of audit on which the audit will begin to be conducted.
- (b) Any audit shall be conducted during normal business hours. 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. Such request shall be made not more than fourteen (14) days after the date of the notice of the audit. The taxpayer may request that the audit be conducted on certain dates and at certain times, provided that such dates are not more than sixty (60) days from the date of the notice of audit. The Village shall conduct the audit on a date and at a time requested by the taxpayer, if such date and time are reasonably convenient to both the Village and any persons retained by the Village to conduct the audit. A date and time shall not be considered to be reasonably convenient if conducting an audit on a particular date or at a particular time will interfere with the ability of Village officers, employees and agents to perform any other duties which they may have as a result of their employment.

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- (c) The taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted not less than twenty-one (21) days nor more than sixty (60) days from the date of the notice of audit, unless the taxpayer and the local tax administrator agree to some other convenient time.
- (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 Village.
- (e) It is the duty and responsibility of every taxpayer to make available its books and records for inspection by the Village. If the taxpayer fails to 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 fourteen (14) days after the Village's determination of the amount of overpayment.
- (g) In the event a tax payment was incorrectly submitted to the Village, the local tax administrator shall notify the local governmental entity imposing such tax. (Ord. No. 00-58, Section 1, 12-21-2000)

### **Sec. 20-82. Appeal.**

- (a) A protestable notice of tax due, a bill, a claim denial, or a notice of claim reduction regarding any tax issued by the local tax administrator shall include the following information:
  - (i) the reason for the assessment;
  - (ii) the amount of the tax liability proposed;
  - (iii) the procedure for appealing the assessment; and
  - (iv) 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 shall include any written documents or other documentary evidence that indicate that the Village's determination or assessment of tax due is unauthorized or otherwise erroneous. The written protest and petition for hearing must be filed with the local

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tax administrator within forty-five (45) days of receipt after the date the written notice of the tax determination or tax liability was served on the taxpayer.

- (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 that is not more than (30) thirty days after receipt by the local tax administrator 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 after the forty-five (45) day period specified in Subsection (b) of this Section has expired. In no event shall the time for filing a written protest and petition for hearing be reopened or extended for more than one hundred twenty (120) days after the expiration of the forty-five (45) day period. (Ord. No. 00-58, Section 1, 12-21-2000)

### **Sec. 20-83. Hearing.**

- (a) Whenever a taxpayer has filed a timely written protest and petition for hearing under Section 20-82, above, the local tax administrator shall conduct a hearing regarding any appeal.
- (b) No continuances shall be granted except for good cause. Lack of preparation shall not be grounds for a continuance. Any continuance granted shall not exceed forty-five (45) days. The local tax administrator shall have the authority to determine whether and when to grant a continuance in the reasonable exercise of the local tax administrator's discretion.
- (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. No. 00-58, Section 1, 12-21-2000)

### **Sec. 20-84. 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.

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- (a) 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 one and one-half (1.5%) percent per month or part thereof.

**ARTICLE VIII. CABLE TELEVISION OPERATOR TAX**

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- (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 (5%) percent of the amount of tax required to be shown as due on a return shall be imposed if the tax return is filed and payment is made within thirty (30) days after the date the tax return was due to be filed. If payment of a tax is not made within the time and manner provided by the controlling tax ordinance, a late payment penalty of five (5%) percent of the tax due shall be imposed. If no return is filed in the manner provided by the controlling tax ordinance within thirty (30) days after a tax return is due under the controlling tax ordinance, and the Village has not issued a notice of tax delinquency or notice of tax liability to the taxpayer, then a failure to file penalty shall be assessed equal to twenty-five (25%) percent of the total tax due for the applicable reporting period for which the return was required to be filed. If no return is filed after the issuance of a notice of tax delinquency or notice of tax liability, then a failure to file penalty shall be assessed equal to thirty-five (35%) percent of the total tax due for the applicable reporting period for which the return was required to be filed. A late filing or payment penalty shall not apply if a failure to file penalty is imposed by the controlling ordinance. (Ord. No. 00-58, Section 1, 12-21-2000)

### **Sec. 20-85. 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. No. 00-58, Section 1, 12-21-2000)

### **Sec. 20-86. Installment Contracts.**

The local tax administrator shall have the authority to enter into an installment contract on behalf of the Village 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) 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. (Ord. No. 00-58, Section 1, 12-21-2000)

### **Sec. 20-87. Period for Requesting Refund or Making Payment of Remaining Tax Due.**

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 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. (Ord. No. 00-58, Section 1, 12-21-2000)

### **Sec. 20-88. Limitations Period.**

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- (a) No determination of tax due and owing may be issued more than four (4) years after the end of the calendar year for which the return for the applicable period was filed or for the calendar year in which the return for the applicable period was due, whichever occurs later.
- (b) If any tax return is not filed or if during any four (4) year period for which a notice of tax determination or assessment may be issued by the Village, the tax paid was less than seventy-five (75%) percent of the tax due, then the period within which a notice of tax determination or assessment may be issued by the Village shall be six (6) years 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) If a fraudulent tax return was filed by the taxpayer, there shall be no limit on the time within which the Village can issue a notice of tax determination or assessment for the period covered by the fraudulent return. (Ord. No. 00-58, Section 1, 12-21-2000)

### **Sec. 20-89. 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 (1%) percent 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. (Ord. No. 00-58, Section 1, 12-21-2000)

### **Sec. 20-90. Publication of Tax Ordinances.**

Any locally administered tax ordinance shall be published via normal or standard publishing requirements, including, but not limited to, publication in pamphlet form. Copies of all tax ordinances shall be made available to the public upon request at the Village Clerk's office. (Ord. No. 00-58, Section 1, 12-21-2000)

### **Sec. 20-91. Liens.**

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:

- (i) timely remove the lien at the Village's expense;
- (ii) correct the taxpayer's credit record; and
- (iii) correct any public disclosure of the improperly imposed lien.

(Ord. No. 00-58, Section 1, 12-21-2000)

**Sec. 20-92. Application.**

This Article VII shall be liberally construed and administered to supplement all of the Village's tax ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with a provision in this Article VII, the provision in this Article VII shall govern and control. (Ord. No. 00-58, Sec. 1, 12-21-2000)

**ARTICLE VIII. CABLE TELEVISION OPERATOR TAX**

**Sec. 20-100. Definitions**

- (a) "Cable operator" is defined as that term is defined under Section 602(9) of the Cable Communications Policy Act of 1984, Public Law 98-549.
- (b) "Cable service" means that term as defined in 47 U.S.C. § 522(6).
- (c) "Gross revenues" means all consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by a cable operator from the provision of cable service within the Village of Fox River Grove.
  - (1) Gross revenues shall include the following:
    - (i) Recurring charges for cable service.
    - (ii) Event-based charges for cable service, including, but not limited to, pay-per-view and video-on-demand charges;
    - (iii) Rental of set top boxes and other cable service equipment.
    - (iv) Service charges related to the provision of cable service, including, but not limited to, activation, installation and repair charges.

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- (v) Administrative charges related to the provision of cable service, including but not limited to service order and service termination charges.
  - (vi) Late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments.
  - (vii) *A pro rata* portion of all revenue derived by the cable operator or its affiliates pursuant to compensation arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of the cable operator's network that provides cable service within the Village of Fox River Grove. The allocation shall be based on the number of subscribers in the Village of Fox River Grove divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.
  - (viii) Compensation received by the cable operator derived from the operation of the cable operator's network that provides cable service with respect to commissions that are received by the cable operator as compensation for promotion or exhibition of any products or services on the cable operator's network, such as a "home shopping" or similar channel, subject to subsection (ix).
  - (ix) In the case of cable service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the cable operator's revenue attributable to the other services, capabilities, or applications shall be included in the gross revenue unless the cable operator can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.
- (2) Gross revenues do not include any of the following:
- (i) Revenues not actually received, even if billed, such as bad debt.
  - (ii) Refunds, discounts, or other price adjustments that reduce the amount of gross revenues received by the cable operator to the extent the refund, rebate, credit, or discount is attributable to cable service or video service.
  - (iii) Regardless of whether the services are bundled, packaged, or functionally integrated with cable service, any revenues received from services not classified as cable service, including, without limitation, revenue received from telecommunication services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing or any other revenues attributed by the cable operator to non-cable service in accordance with the cable operator's books and records and records kept in the regular course of

business and any applicable laws, rules, regulations, standards, or orders.

- (iv) The sale of cable services for resale in which the purchaser is required to pay the cable television operator tax, if applicable, to the extent the purchaser certifies in writing that it will resell the service within the Village of Fox River Grove.
  - (v) Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, State, federal, or any other governmental entity and collected by the cable operator and required to be remitted to the taxing entity, including sales and use taxes.
  - (vi) Security deposits collected from subscribers.
  - (vii) Amounts paid by subscribers to “home shopping” or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service.
- (3) Revenue of an affiliate of a cable operator shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate rather than the cable operator has the effect of evading the payment of the tax imposed by Section 20-101 of this code which would otherwise be paid by the cable operator.

**Sec. 20-101. Tax on Cable Operators Imposed.**

A tax in the amount of five (5%) percent of gross revenues is imposed on any cable operator, other than a cable operator who is providing cable service in the Village either pursuant to the authority of a franchise issued by the Illinois Commerce Commission pursuant to the Cable and Video Competition Law of 2007 or pursuant to a franchise with the Village which provides for the cable operator to pay an amount to the Village equal to five (5%) percent of gross revenues, provided that if a cable operator is paying an amount to the Village pursuant to a franchise that is less than five (5%) percent of gross revenues, then the amount of the tax imposed by this Section shall be the difference between five (5%) percent of gross revenues and the amount which is otherwise being paid to the Village.

**Sec. 20-102. Remittance of Tax.**

The payment of the cable operator tax shall be due on a quarterly basis, forty-five (45) days after the close of the calendar quarter. If mailed, the tax is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the amount of tax due.

**Sec. 20-103. Applicable Principles.**

All determinations and calculations under this Article shall be made pursuant to generally accepted

accounting principles.

**Sec. 20-104. No Impact on Other Taxes and Fees Due from Cable Operator.**

Nothing contained in this Article shall be construed to exempt a cable operator from any other tax or fee that is or may later be imposed by the Village of Fox River Grove, including any tax or fee that is or may later be required to be paid by or through the cable operator with respect to cable service.

**Sec. 20-105. Audits of Cable/Video Service Provider.**

- (a) Audit Requirement. The Village of Fox River Grove will notify the cable operator of the requirements it imposes on other cable operators to submit to an audit of its books and records. The cable operator shall comply with the same requirements the Village of Fox River Grove imposes on other cable service providers in its jurisdiction to audit the cable operator's books and records and to recompute any amounts determined to be payable under the requirements of the Village of Fox River Grove. If all local franchises between the Village of Fox River Grove and cable operator terminate, the audit requirements shall be those adopted by the Village of Fox River Grove pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.* No acceptance of amounts remitted should be construed as an accord that the amounts are correct.
- (b) Additional Payments. Any additional amount due after an audit shall be paid within thirty (30) days after the municipality's submission of an invoice for the sum.

**Sec. 20-106. Late Fees/Payments.**

All fees and payments which are past due shall be governed by Article VII of Chapter 20 of this Code and such other ordinances as may be adopted by the Village of Fox River Grove pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.* (Ord. No. 08-14, Sec. 2, 7-17-08)