

CHAPTER 36

TAXATION

ARTICLE I – TAXPAYER’S BILL OF RIGHTS

36-1-1 **TITLE.** This Chapter shall be known as, and may be cited as, the “Locally Imposed and Administered Tax Rights and Responsibility Ordinance.”

36-1-2 **SCOPE.** The provisions of this ordinance shall apply to the Village’s procedure in connection with all of the Village’s locally imposed and administered taxes.

36-1-3 **DEFINITIONS.** Certain words or terms herein shall have the meaning ascribed to them as follows:

(A) **“Act”** means the “Local Government Taxpayers’ Bill of Rights Act.”

(B) **“Corporate Authorities”** means the Village’s President and Board of Trustees.

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

(D) **“Local tax administrator”**, the Village’s Collector 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 Chapter to give full effect to this Chapter. The exercise of such authority by the local tax administrator shall not be inconsistent with this Chapter and the Act.

(E) **“Village”** means the Village of Hamel, Illinois.

(F) **“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.

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

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

36-1-4 **NOTICES.** Unless otherwise provided, whenever notice is required to be given, the notice is to be in writing mailed not less than **seven (7) calendar days** prior to the day fixed for any applicable hearing, audit or other scheduled act of the local tax administrator. The notice shall be sent by the local tax administrator as follows:

(A) First class or express mail, or overnight mail, addressed to the persons concerned at the persons’ last known address, or

(B) Personal service or delivery.

36-1-5 **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.

36-1-6 **PAYMENT.**

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

(B) **Interest and Penalties.** In the event a determination has been made that a tax is due and owing, through audit, assessment or other bill sent, the tax must be paid within the time frame otherwise indicated.

(1) **Interest.** The Village hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax, to be **five percent (5%)** per annum, based on a year of **three hundred sixty-five (365) days** and the number of days elapsed.

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

(C) **Abatement.** The local tax administrator shall have the authority to waive or abate any late filing penalty, late payment penalty or failure to file penalty if the local tax administrator shall determine reasonable cause exists for delay or failure to make a filing.

36-1-7 **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 **three (3) 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 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:

(D) The taxpayer shall submit to the local tax administrator in writing a claim for credit or refund together with a statement specifying:

- (1) the name of the locally imposed and administered tax subject to the claim;
- (2) the tax period for the locally imposed and administered tax subject to the claim;
- (3) the date of the tax payment subject to the claim and the cancelled check or receipt for the payment;
- (4) the taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and
- (5) 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.

(E) Within **ten (10) days** of the receipt by the local tax administrator of any claim for a refund or credit, the local tax administrator shall either:

- (1) grant the claim; or
- (2) 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.

(F) In the event the local tax administrator grants, in whole or in part, a claim for the refund or credit, the amount of the grant for refund or credit shall bear interest at the rate of **four percent (4%)** 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 of the date of mailing of a refund check or the grant of a credit.

36-1-8 **AUDIT PROCEDURE.** Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this Chapter.

(A) Each notice of audit shall contain the following information:

- (1) the tax;
- (2) the time period of the audit; and
- (3) a brief description of the books and records to be made available for the auditor.

(B) Any audit shall be conducted during normal business hours and if the date and time selected by the local tax administrator is not agreeable to the taxpayer, another date and time may be requested by the taxpayer within **thirty (30) days** after the originally designated audit and during normal business hours.

(C) The taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted not less than **seven (7) days** not more than **thirty (30) days** from the date the notice is given, unless the taxpayer and the local tax administrator agreed to some other convenient time. In the event taxpayer is unable to comply with the audit on the date in question, the taxpayer may request another date within the **thirty (30) days**, approved in writing that is convenient to the taxpayer and the local tax administrator.

(D) Every taxpayer shall keep accurate books and records of the taxpayer's business or activities, including original source documents and books of entry denoting the transactions which had given rise or may have given rise to any tax liability, exemption or deduction. All books shall be kept in the English language and shall be subject to and available for inspection by the 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 or tax collector fails to provide the documents necessary for audit within the time provided, the local tax administrator may issue a tax determination an assessment based on the tax administrator's determination of the best estimate of the taxpayer's tax liability.

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

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

36-1-9

APPEAL.

(A)

Procedure.

- (1) 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:
 - (a) the reason for the assessment;
 - (b) the amount of the tax liability proposed;
 - (c) the procedure for appealing the assessment; and
 - (d) the obligations of the Village during the audit, appeal, refund and collections process.
- (2) A taxpayer who receives written notice from the local tax administrator of a determination of tax due or assessment may file with the local tax administrator's a written protest and petition for hearing, setting forth the basis of the taxpayer's request for a hearing. The written protest and petition for hearing must be filed with the local tax administrator within **forty-five (45) days** of receipt of the written notice of the tax determination and assessment.
- (3) If a timely written notice and petition for hearing is filed, the local tax administrator shall fix the time and place for hearing and shall give written notice to the taxpayer. The hearing shall be scheduled for a date within **fourteen (14) days** of receipt of the written protest and petition for hearing, unless the taxpayer requests a later date convenient to all parties.
- (4) If a written protest and petition for hearing is not filed within the **forty-five (45) day** period, the tax determination, audit or assessment shall become a final bill due and owing without further notice.

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

(B)

Hearing.

- (1) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under section nine, above, the local tax administrator shall conduct a hearing regarding any appeal.
- (2) No continuances shall be granted except in cases where a continuance is absolutely necessary to protect the rights of the taxpayer. Lack of preparation shall not be grounds for a continuance. Any continuance granted shall not exceed **fourteen (14) days**.
- (3) At the hearing the local tax administrator, shall preside and shall hear testimony and accept any evidence relevant to the tax determination, audit or assessment. The strict rules of evidence applicable to judicial proceedings shall not apply.
- (4) At the conclusion of the hearing, the local tax administrator shall make a written determination on the basis of the evidence presented at the hearing. The taxpayer or tax collector shall be provided with a copy of the written decision.

36-1-10 INSTALLMENT CONTRACTS. The Village may enter into an installment contract with the taxpayer for the payment of taxes under the controlling tax ordinance. The local tax administrator may not cancel any installment contract so entered unless the taxpayer fails to pay any amount due and owing. Upon written notice by the local tax administrator that the payment is **thirty (30) days** delinquent, the taxpayer shall have **fourteen (14) working days** to cure any delinquency. If the taxpayer fails to cure the delinquency within the **fourteen (14) day** period or fails to demonstrate good faith in restructuring the installment contract with the local administrator, the installment contract shall be canceled without further notice to the taxpayer.

36-1-11 STATUTE OF LIMITATIONS. The Village, through the local tax administrator, shall review all tax returns in a prompt and timely manner and inform taxpayers of any amounts due and owing. The taxpayer shall have **forty-five (45) days** after receiving notice of the reviewed tax returns to make any request for refund or provide any tax still due and owing.

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

(B) If any tax return is not filed or if during any **four (4) year** period for which a notice of tax determination or assessment may be issued by the Village, the tax paid was less than **seventy-five percent (75%)** of the tax due, the statute of limitations 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) No statute of limitations shall not apply if a fraudulent tax return was filed by the taxpayer.

36-1-12 VOLUNTARY DISCLOSURE. For any locally imposed and administered tax for which a taxpayer has not received a written notice of an audit, investigation, or assessment from the local tax administrator, a taxpayer is entitled to file an application with the local tax administrator for a voluntary disclosure of the tax due. A taxpayer filing a voluntary disclosure application must agree to pay the amount of tax due, along with interest of **one percent (1%)** per month, for all periods prior to the filing of the application but not more than **four (4) years** before the date of filing the application. A taxpayer filing a valid voluntary disclosure application may not be liable for any additional tax, interest, or penalty for any period before the date the application was filed. However, if the taxpayer incorrectly determined and underpaid the amount of tax due, the taxpayer is liable for the underpaid tax along with the applicable interest on the underpaid tax, unless the underpayment was the result of fraud on the part of the taxpayer, in which case the application shall be deemed invalid and void. The payment of tax and interest must be made by no later than **ninety (90) days** after the filing of the voluntary disclosure application or the date agreed to by the local tax administrator. However, any additional amounts owed as a result of an underpayment of tax and interest previously paid under this Section must be paid within **ninety (90) days** after a final determination and the exhaustion of all appeals of the additional amount owed or the date agreed to by the local tax administrator, whichever is longer.

36-1-13 PUBLICATION OF TAX ORDINANCES. Any locally administered tax ordinance shall be published via normal or standard publishing requirements. The posting of a tax ordinance on the Internet shall satisfy the publication requirements. Copies of all tax ordinances shall be made available to the public upon request at the Village Clerk's Office.

36-1-14 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:

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

36-1-15 LIBERAL CONSTRUCTION. This Chapter shall be liberally construed and administered to supplement all of the Village's tax ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with this Chapter, this Chapter shall be controlling.

(Ord. No. 01-001)

ARTICLE II – TELECOMMUNICATIONS TAX

36-2-1 **DEFINITIONS.** As used in this Article the following terms shall have the following meanings:

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

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

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

- (1) any amounts added to a purchaser's bill because of a charge made pursuant to:
 - (a) the tax imposed by this Chapter,
 - (b) the tax imposed by the Telecommunications Excise Tax Act,
 - (c) the tax imposed by Section 4251 of the Internal Revenue Code,
 - (d) 911 surcharges, or
 - (e) charges added to customers' bills pursuant to the provisions of Section 9-221 or 9-222 of the public Utilities Act, as amended, or any similar charges added to customers' bills by retailers who are not subject to rate regulation by the Illinois Commerce Commission for the purpose of recovering any of the tax liabilities or other amounts specified in those provisions of the Public Utilities Act;
- (2) charges for a sent collect telecommunication received outside of such Village;
- (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. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment or accounting equipment and also includes the usage of computers under a time-sharing agreement;
- (4) charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges;

- (5) charges to business enterprises certified as exempt under Section 9-222.1 of the Public Utilities Act to the extent of such exemption and during the period of time specified by the Department of Commerce and 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 Chapter 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 generation of profit for the corporation rendering such service;
- (7) bad debts ("bad debts" 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 deemed 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.

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

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

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

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

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

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

agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.

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

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

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

(M) **"Telecommunications"**, in addition to the meaning ordinarily and popularly ascribed to it, includes, without limitation, messages or information transmitted through use of local, toll, and wide area telephone service, private line services, channel services, telegraph services, teletypewriter, computer exchange services, cellular mobile telecommunications service, specialized mobile radio, stationary two-way radio, paging service, or any other form of mobile and portable one-way or two-way communications, or any other transmission of messages or information by electric or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. As used in this Chapter, "private line" means a dedicated non-traffic sensitive service for a single customer that entitles the customer to exclusive or priority use of a communications channel or group of channels from one or more specified locations to one or more other specified locations. The definition of "telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchases of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the taxable end-to-end communications. Carrier access charges, right of access charges, charges for use of inter-company facilities, and all telecommunications resold in the subsequent provision of used as a component of, or integrated into, end-to-end telecommunications service shall be non-taxable as sales, for resale. Prepaid telephone calling arrangements shall not be considered "telecommunications" subject to the tax imposed under this Chapter. For purposes of this Section, "prepaid telephone calling arrangements" means that term as defined in Section 2-27 of the Retailers' Occupations Tax Act.

36-2-2 TAX IMPOSED. A tax is hereby imposed upon any and all of the following acts or privileges:

(A) A simplified municipal telecommunications tax is hereby imposed upon the act or privilege of originating in the Village or receiving in the Village intrastate or interstate

telecommunications by a person under the provisions of the Simplified Municipal Telecommunications Tax Act (**35 ILCS 636/5-1 et seq.**), at a rate of **five percent (5%)** of the gross charges for such telecommunications purchased at retail from a retailer.

(B) To prevent actual multistate taxation of the act or privilege that is subject to taxation under this subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another state on such event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of such tax properly due and paid in such other state which was not previously allowed as a credit against any other state or local tax in this State.

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

36-2-3 COLLECTION.

(A) The tax hereby imposed shall be collected and enforced by the Department of Revenue of the State of Illinois. The Illinois Department of Revenue shall have full power to administer and enforce the provisions of this Chapter.

(B) The tax authorized by this Chapter shall be collected from the taxpayer by a retailer maintaining a place of business in this State and shall be remitted by such retailer to the Department. Any tax required to be collected pursuant to or as authorized by this Chapter and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Retailers shall collect the tax from the taxpayer by adding the tax to the gross charge for the act or privilege of originating or receiving telecommunications when sold for use, in the manner prescribed by the Department. The tax authorized by this Chapter shall constitute a debt of the taxpayer to the retailer until paid, and if unpaid, is recoverable at law in the same manner as the original charge for such sale at retail. If the retailer fails to collect the tax from the taxpayer, then the taxpayer shall be required to pay the tax directly to the Department in the manner provided by the Department.

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

(D) On or before the last day of **February 2005**, and on or before the last day of every month thereafter, the tax imposed under this Chapter on telecommunication retailers shall be returned with appropriate forms and information as required by the Department pursuant to the Illinois Simplified Municipal Telecommunications Tax Act (Public Act 92-526, Section 5-50), and any accompanying rules and regulations created by the Department to implement the Act.

36-2-4 RESELLERS.

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

(B) Upon approval of the application, the Department shall assign a resale number to the applicant and shall certify such number to the applicant. The Department may

cancel any number which is obtained through misrepresentations, or which is used to send or receive such telecommunication tax-free when such actions in fact are not for resale, or which no longer applies because of the person's having discontinued the making of resales.

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

(Ord. No. 04-008 added Ch. 36, Art. III to the Revised Code as adopted 6/2/81)
(Ord. No. 04-008A amended Ch. 36, Art. III)

ARTICLE III – GAS UTILITIES TAX

36-3-1 TAX IMPOSED.

(A) A tax is imposed on all persons engaged in the following occupations or privileges: The privilege of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of the Village of Hamel, Illinois and not for resale at a rate of **five percent (5%)** of the gross receipts therefrom.

36-3-2 EXCEPTIONS.

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

36-3-3 DEFINITIONS.

"Gross receipts", "person", and "public utility" shall be that as defined under **65 ILCS 5/8-11-2 (d)**.

36-3-4 APPLICATION.

(A) That the above referenced tax shall not be imposed upon another unit of local government or school district which is located within the corporate limits of the Village of Hamel, Illinois.

(B) That the tax provided for herein shall be based on the gross receipts, as herein defined, actually paid by the consuming taxpayer for services billed on or after **February 1, 2005**.

(C) Such tax shall be in addition to other taxes levied upon the taxpayer or its business.

(Ord. No. 05-003)

ARTICLE IV – ELECTRIC UTILITIES TAX

36-4-1 TAX IMPOSED.

(A) A tax is hereby 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 of Hamel, Illinois at rates not to exceed the following maximum rates, calculated on a monthly basis for each purchaser:

- (1) For the first 2,000 kilowatt-hours used or consumed in a month; 0.5524 cents per kilowatt-hour;
- (2) For the next 48,000 kilowatt-hours used or consumed in a month; 0.3623 cents per kilowatt-hour;
- (3) For the next 50,000 kilowatt-hours used or consumed in a month; 0.3260 cents per kilowatt-hour;
- (4) For the next 400,000 kilowatt-hours used or consumed in a month; 0.3170 cents per kilowatt-hour;
- (5) For the next 500,000 kilowatt-hours used or consumed in a month; 0.3079 cents per kilowatt-hour;
- (6) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.2898 cents per kilowatt-hour;
- (7) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.2853 cents per kilowatt-hour;
- (8) For the next 5,000,000 kilowatt-hours used or consumed in a month; 0.2808 cents per kilowatt-hour;
- (9) For the next 10,000,000 kilowatt-hours used or consumed in a month; 0.2762 cents per kilowatt-hour;
- (10) For all electricity use or consumed in excess of 20,000,000 kilowatt-hours in a month, 0.2717 cents per kilowatt-hour.

The tax rates set forth in the preceding table will be used at least through **December 31, 2008**, are proportional to the rates enumerated in **65 ILCS 5/8-11-2** (as modified by Public Act 90-561), and do not exceed the revenue that could have been collected during 1997 using the rates enumerated in **65 ILCS 5/8-11-2** (as modified by Public Act 90-561). Pursuant to **65 ILCS 5/8-11-2**, the rates set forth in subsection (A) above shall be effective upon approval by the Illinois Commerce Commission.

(B) Any of the taxes enumerated in this Section shall be in addition to the payment of money, or value of products or services furnished to the Village by the person (utility) delivering such electricity as compensation for the use of the Village's 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 such person's (utility) business.

36-4-2 EXCEPTIONS. None of the taxes authorized by **Section 36-4-1** of this Chapter may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privilege may not, under the constitution and statutes of the United States, be made the subject of taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, selling or transmitting electricity, or using or consuming electricity acquired in a purchase at retail, be subject to taxation under the provisions of this Section for those transactions that are or may become subject to taxation under the provisions of the "Municipal Retailers' Occupation Tax

Act" authorized by Section 8-11-1; nor shall any tax authorized by **Section 36-4-1** of this Chapter be imposed upon any person engaged in a business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in business of the same class in the Village.

Such taxes shall be in addition to other taxes levied upon the taxpayer or its business.

36-4-3 COLLECTION.

(A) **Tax Collected by Deliverer of Electricity.** The tax authorized by **Section 36-4-1** of this Chapter shall be collected from the purchaser by the person maintaining a place of business in this State who delivers the electricity to the purchaser. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and if unpaid, is recoverable in the same manner as the original charge for delivering the electricity. Any tax required to be collected pursuant to this Section shall constitute a debt owed to the Village by such person delivering the electricity. Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering the electricity shall also be authorized to add to such gross charge an amount equal to **three percent (3%)** of the tax to reimburse the person delivering electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the Village upon request. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the Village in the manner prescribed by the Village. Persons delivering electricity who file returns pursuant to this paragraph shall, at the time of filing such return, pay the Village the amount of the tax collected pursuant to this Chapter, provided that in connection with any return, the filer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings, and the taxable gross receipts.

(B) **Tax Return Form Required of Deliverer of Electricity.** On or before the last day of each month, any person delivering electricity to users within the Village of Hamel shall make a return to the Village for the preceding month stating: 1) The name and address of the Entity delivering the electricity and the name and address of the entity charging for such electricity, if different; 2) The total kilowatt-hour usage for all recipients of such electricity within the Village, broken down into the rate categories listed in **Section 36-4-1** of this Chapter; and 3) the amounts of the tax imposed, subtotal as to each rate category listed in **Section 36-4-1** of this Chapter and then totaled as to the total tax collected for that preceding month.

The Village shall have the right to require additional information of any such person delivering electricity to users within the Village as it may reasonably require in auditing and enforcing the provisions of this Chapter.

(C) **Failure to File Return, Misdemeanor.** Any person obligated to do so under this Chapter but fails to make a return, or who makes a fraudulent return, or who violates any other provision of this Chapter is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than **One Hundred Dollars (\$100.00)** nor more than **Two Hundred Dollars (\$200.00)**, and in addition, shall be liable in a civil action for the amount of the tax that is due.

(Ord. No. 05-005)

(Note: Ord. No. 05-005 repealed Ord. No. 04-011)

ARTICLE V – MOTEL / HOTEL TAX

36-5-1 **DEFINITIONS.** As used in this Chapter, the following terms shall have these meanings:

(A) **"Hotel"** means any building or buildings in which the public may, for a consideration, obtain living quarters, sleeping or housekeeping accommodations. The term includes inns, motels tourists home or courts, lodging houses, rooming houses and apartment houses.

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

(C) **"Occupancy"** means the use or possession, or the right to the use or possession, of any room or rooms in a hotel for any purpose, or the right to use the possession of the furnishings or to the services and accommodations accompanying the use and possession of the room or rooms.

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

(E) **"Permanent resident"** means any person who has occupied or has the right to occupy any room or rooms in a hotel for at least **thirty (30) consecutive days**, pursuant to a written agreement between the operator and the resident.

(F) **"Rent" or "rental"** means the consideration received for occupancy, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature.

(G) **"Village"** means the Village of Hamel.

(H) **"Board"** means the Board of Trustees of the Village of Hamel.

(I) **"Person"** means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, or a receiver, executor, trustee, guardian or other representative appointed by order of any court.

36-5-2 **TAX IMPOSED.**

(A) There is hereby levied and imposed a tax of **five percent (5%)** of the rent charged for the privileges and use of the renting a hotel or motel room within the Village, for each **twenty-four (24) hour** period or any portion thereof for which a daily room charge is made provided, however, that the tax shall not be levied and imposed upon any permanent resident.

(Ord. No. 00-006 as amending Ord. No. 96-008, which amended Ch. 36, Art. VI, Sec. 36-6-2 of the Revised Code as adopted 6/2/81)

36-5-3 **DUTIES.**

(A) The ultimate incidence of, and liability for payment of said tax is to be borne by the person who seeks the privileges of occupying the hotel or motel room, said person hereinafter referred to as "renter".

(B) The tax herein levied shall be paid in addition to any and all other taxes and charges. It shall be the duty of the operator of every hotel or motel to secure said tax form the renter of the motel or hotel room, and to pay-over to the Village Clerk or any authorized representative of the Village said tax under procedures prescribed by the Village Clerk, or as otherwise provided in this Chapter.

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

(D) Each operator shall register with the Village Clerk. For those operators in existence at the adoption of this Chapter, they shall register within **thirty (30) days** of the date of this Chapter. All other operators shall register at the time they apply for a business license. Thereafter, every operator shall renew and update said registration at the time of renewal or application for a business license. Every application for a business license shall be reviewed by the Village Clerk or authorized agent to determine whether the provisions of this Chapter shall apply.

36-5-4 BOOKS AND RECORDS. The Village Treasurer or authorized representative, may enter the premises of any hotel or motel for inspection and examination of records in order to effectuate the proper administration of this Chapter, and to assure the enforcement of the collection of the tax imposed. It shall be unlawful for any person to prevent, hinder, or interfere with the Village Treasurer or authorized representative in the discharge of their duties in the enforcement of this Chapter. It shall be the duty of every operator to keep accurate and complete books and records to which the Village Treasurer, or authorized representative, shall at all times have full access, which records shall include a daily sheet showing:

(A) The number of hotel or motel rooms rented during the **twenty-four (24) hour** period, including multiple rentals of the same hotel or motel rooms where such shall occur;

(B) The actual hotel or motel rental receipts collected for the date in question; and

(C) The actual hotel or motel rental receipts attributable to permanent residents. Further, said accurate and complete records shall include, but not be limited to, written agreements and other evidence showing operator is properly claiming exemptions for permanent residents.

36-5-5 MONTHLY RETURNS FILED.

(A) Every operator shall file monthly with the Village Clerk, a return with payment of the taxes due for the period covered by the return. The return shall be due on or before last day of the calendar month succeeding the end of the monthly filing period. A separate return shall be filed for each place of business within the Village.

(B) The first taxing period for the purpose of this ordinance shall commence on **August 1, 1996**. Filing of that period and for payment of the tax collected shall be done on or before **September 30, 1996**. Therefore, reporting periods and tax payments shall be in accordance with the provisions of this Chapter.

(C) If for any reason any tax is not paid when due, a penalty of **one and one-half percent (1 ½%)** per month or portion thereof from the date of delinquency shall be added and collected. In addition, a penalty of **ten percent (10%)** of the tax and interest due shall be assessed and collected against any hotel or motel operator who shall fail to collect and/or remit the tax imposed by this Chapter.

(D) Each operator shall file a return on the form provided by the Village Clerk with the following information stated:

- (1) Name of hotel or motel;
- (2) Name of operator;
- (3) Address of hotel or motel location;
- (4) Gross receipts for the period covered by the return as a total for the period and for each month covered by the period;
- (5) Receipts attributable to permanent residents by month and as a total for the period;
- (6) The difference between (4) and (5) above for each month and for the period;
- (7) The tax collected for the period;
- (8) The tax paid with the return for the period;
- (9) A statement, under oath, by the operator, or its agent, that the return is true and accurate and that the tax due and owing for the period is correct as shown on the return; and
- (10) Such other reasonable and related information as the Village Clerk, Village Treasurer or corporate authorities may require.

36-5-6 **COLLECTION AND ENFORCEMENT.** Whenever any operator fails to pay any tax, interest or penalty as herein provided, the Village Attorney shall, upon request of the Village Clerk, Village Treasurer or Village Board, bring suit on behalf of the Village in Court of complete jurisdiction for the tax, interest, penalty and costs of collection including a reasonable attorney's fees.

36-5-7 **PROCEEDS OF TAX AND FINES.**

(A) **Tourism Fund.** The proceeds of taxes, interests, penalties and fines under this Chapter shall be placed into a fund solely to promote tourism and conventions to and within the Village or otherwise attract overnight visitors to the Village. Said fund shall be hereafter referred to as the "Tourism Fund". No proceeds under this Chapter paid into said fund shall be used to advertise or promote new competition within the hotel/motel business. The Village Clerk's office and the Village Treasurer's office may each be reimbursed for their actual expenses of administering and collecting the tax imposed herein up to **five percent (5%)** of the taxes, interest, penalty or fines collected, each year. The Legal and Judicial Department and budget may be reimbursed for all expenses of collection and reasonable attorney's fees as awarded and paid, in any action to recover taxes, interest or penalty or prosecute violation.

(B) **Tourism Committee.** There shall be permanent standing committee entitled "Tourism Committee". The primary responsibility of the Tourism Committee is to make recommendations to the Village Board as to the orderly and most effective way to promote the purposes for which the tax levied herein has been imposed. To accomplish this the Tourism Committee shall:

- (1) Meet once each month or as needed for planning, discussing, and input from the public and business community at large;
- (2) Establish process for accepting request for funding, review requests for funding and make recommendations to the Village Board regarding such requests; and

- (3) Perform other duties and functions as assigned them by the Mayor or Village Board.

(C) **Compensation.** The Tourism Committee shall not be reimbursed from or seek payment from the Tourism Fund for any sum whether or not related to the purposes for which the Fund or the Committee was established. Any funding requirements of the Committee shall be taken up by the Village Board for appropriation from other funds, taxes or receipts of the Village.

(D) **Limited Authority.** The Tourism Committee shall not enter into any contract, agreement or other obligation calling for expenditures from the Tourism Fund. The Village Board, alone, shall approve all payments and disbursements from said fund. The Tourism Committee may enter into cooperative agreements with other similar bodies to exchange or receive information, or for any reason, related to its purpose, providing that any fee, cost, charge, dues, or other expenditure relative to the agreement is allocated and paid from the Committee's budget and not from the Tourism Fund.

(E) **Composition and Qualifications.**

- (1) The Tourism Committee shall be composed of not less than **three (3) members**, and shall be appointed by the Mayor with the consent of the Village Board.
- (2) Members shall be residents of the Village or reside not more than **one and one half (1 ½) miles** from the Village limits, and shall not reside in any other municipality.

(F) **Ex Officio Members.**

- (1) Ex officio members may be appointed to the Tourism Committee by the Mayor with the consent of the Board.
- (2) Such ex officio members shall not have to meet the requirements of subsection (E) (2) and (3) above.
- (3) Such ex officio members shall not have voting powers.

(G) **Terms of Office; Vacancies.**

- (1) Initially, the Mayor, with the consent of the Board, shall appoint to the Tourism Committee **one (1) member** for **three (3) year** terms; **one (1) member** for **two (2) year** terms and **one (1) member** for **one (1) year** term. Thereafter, all members shall be appointed for **three (3) year** terms.
- (2) Vacancies shall occur on the Commission upon any of the following situations:
 - (a) A member fails to meet the qualifications set out in this Section;
 - (b) A member dies or is disabled;
 - (c) A member is otherwise removed by action of the Corporate Authorities; or
 - (d) A member fails to attend the regular meetings of the Committee as provided in this Chapter. All vacancies on the Committee shall be filled by appointment to the term of the vacating member by the Mayor with the consent of the Board.

36-5-8 **PENALTIES.** Any operator or person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with or opposing the enforcement of any provision of this Chapter, in addition to any and all other penalties provided herein, upon conviction thereof, shall be punished by a fine of not less than **One Hundred Dollars (\$100.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**. Each day said condition exists shall constitute a separate and distinct offense punishable in the same manner. The purpose of imposing these penalties is to ensure the integrity of the collection process established herein.

(Ord. No. 96-008)

ARTICLE VI – BUSINESS DISTRICT TAX

36-6-1 BUSINESS DISTRICT TAX.

(A) Tax Established: Selling Tangible Personal Property. A Business District Retailers' Occupation Tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this State's government, at retail within the boundaries of the Business District at the rate of **one percent (1%)** of the gross receipts from such sales made in the course of such business while this Article is in effect. **(See Addendum "A")**

(B) Sales of Service. A Business District Service Occupation Tax is hereby imposed upon all persons engaged within the boundaries of the Business District in the business of making sales of service, who as an incident to making those sales of service transfer tangible personal property within the Business District, either in the form of tangible personal property or in the form of real estate as an incident to a sale of service, at the rate of **one percent (1%)** of the selling price of tangible personal property so transferred with the Business District.

(C) Renting or Leasing Hotel Rooms. An occupation tax is hereby imposed upon all persons engaged within the boundaries of the Business District in the business of renting, leasing or letting rooms in a hotel, as defined in the Hotel Operators Occupation Tax Act, at a rate of **one percent (1%)** of the gross rental receipts from the renting, leasing, or letting of hotel rooms excluding however from gross rental receipts the proceeds of renting, leasing, or letting to permanent residents of a hotel, as defined in the Hotel Operators' Occupation Tax Act, and proceeds from the tax imposed under subsection (c) of Section 13 of the Metropolitan Pier and Exposition Authority Act.

(D) Food Excluded. The taxes in paragraph (A) and (B) shall not be imposed on food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption), prescription and nonprescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes and needles used by diabetics, for human use.

(E) Imposition of Tax. The imposition of these taxes shall be for the planning, execution and implementation of the Business District Plan and the revenues from such taxes shall be applied to payment of the authorized expenditures of the Business District or to payment of bonds, notes or other obligations issued to fund such expenditures of the Business District. The taxes shall be in full force and effect until all obligations of the Business District have been paid in accordance with the Business District Plan.

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

(G) Execution of Certificates. The Mayor and Village Clerk are hereby authorized and directed to execute and deliver for and on behalf of the Village, all certificates, documents, agreements or other instruments as may be necessary or proper to carry out and comply with the provisions that are incidental to the implementation of this Article.

(H) Filing Copy by Clerk. The Village Clerk is hereby directed to file a certified copy of this Article with the Illinois Department of Revenue.

**(Ord. No. 13-08; 09-10-13)
(See 65 ILCS 5/11-74.3-1 et seq.)**

ADDENDUM "A"

LEGAL DESCRIPTION FOR HAMEL BUSINESS DISTRICT

All that part of the East Half of the Southeast Quarter of Section 11 lying Easterly of the Easterly right-of-way of U.S. Route 66 (Federal Aid Route 190, A.K.A. Interstate 55) and all that part of the East half of the Northeast Quarter of Section 14 lying East of the Easterly right-of-way of U.S. Route 66 (Federal Aid Route 190, A.K.A. Interstate 55) which lays North of the South right-of-way line of the Relocated Township Road T.R. 248 and the Westerly extension thereof, all in Township 5 North, Range 7 West of the Third Principal Meridian, Village of Hamel, Madison County, Illinois.

ADDRESSES

HAMEL ILLINOIS 62046

9191 State Route 140
9190 State Route 140
9180 State Route 140
9170 State Route 140
401 East State Street