

## CHAPTER 36

### TAXATION

#### ARTICLE I – FOREIGN FIRE INSURANCE TAX

**36-1-1 PAYMENT, GENERALLY.** All corporations, companies and associations not incorporated under the laws of the State which are engaged, within the limits of the municipality, in writing fire insurance, shall pay annually to the Treasurer of the municipality, for the use and support of the Fire Department of the municipality, the sum of **two percent (2%)** of the gross receipts of their agencies in the municipality. All such corporations, companies and associations shall pay at the rate of **two percent (2%)** upon the gross amount of premiums, which shall have been received for any insurance effected or agreed to be affected, within the limits of the municipality during each year ending **July first (1st)** by each association or company, respectively. **(1917 Code; § 16-143)**

**36-1-2 PERSONS ACTING AS AGENT, ETC., TO REPORT PREMIUMS.** Every person who shall act, within the municipality, as agent or otherwise, for or in behalf of any corporation, company or association as referred to in **Section 36-1-3** of this Code shall, on or before the **fifteenth (15th) day of July** of each year, render to the Clerk, a full, true and just account, verified by affidavit, of all the premiums which shall have been received by such agent for fire insurance during the year ending **July first (1st)**, preceding such report, in behalf of such corporation, company or association.

**36-1-3 PERSON ACTING AS AGENT TO MAKE PAYMENT OF TWO PERCENT (2%) OF GROSS RECEIPTS; COMPANIES IN DEFAULT NOT TO TRANSACT BUSINESS.** Every person who shall act within the municipality as agent or otherwise for or in behalf of any corporation, company or association as referred to in **Section 36-1-2** of this Code shall, on behalf of the corporation, company or association represented, pay annually to the Treasurer, at the time of making the report referred to in **Section 36-1-2**, **two percent (2%)** of the gross receipts or premiums of his agency, for which the corporation, company or association represented by the person making such report is chargeable by virtue of this Article. If such account be not rendered on or before the day designated in this Article, or if the rate above fixed shall remain unpaid after that date, it shall be unlawful for such corporation, company or association, so in default, to transact any business within the limits of the municipality, until the above requirements have been fully met; but this provision shall not relieve any such corporation, company or association from the payment of any risk taken in violation hereof.

**36-1-4 EFFECT OF FAILURE OF PERSON ACTING AS AGENT, ETC., TO MAKE REPORT OF PREMIUMS OR TO PAY SUMS DUE; EFFECTING CONTRACTS OF FIRE INSURANCE FOR NON-COMPLYING COMPANIES, ETC.** Any person acting as agent or otherwise for, or in behalf of any fire insurance company, corporation, or association, as referred to in this Article in effecting fire insurance within the limits of the municipality, who shall fail to make the report required in this Article, or fail to pay over the amount due from any such corporation, company, or association at the time designated for that purpose, or who shall effect or attempt to effect any contract of fire insurance in behalf of any such corporation, company, or association which has not complied with the provisions of this Article, shall, upon conviction, be deemed guilty of a misdemeanor; provided that any prosecution brought by the municipality to enforce the penalty for the violation of this Article shall not interfere with the rights of the municipality to recover, by appropriate action, the sum due the municipality, at the rate fixed in this Article, from any such corporation, company, or association, its agents or representatives.

**ARTICLE II - GENERAL TAXES**

**36-2-1**            **CORPORATE RATE.** The maximum rate for general corporate purposes of the City shall be and the same is hereby established at a rate of **.25%**. (**65 ILCS Sec. 5/8-3-1**)

**36-2-2**            **MAXIMUM RATES ESTABLISHED.** The maximum tax rates for the various purposes of the City of the full, fair, cash value as equalized or assessed by the Department of Revenue on all the taxable property within the City shall be as follows:

<b><u>FUND/PURPOSE</u></b>	<b><u>MAXIMUM RATE</u></b>
City Park	\$.25 per \$100.00
Emergency Service and Disaster Agency	\$.05 per \$100.00
IMRF	\$ NO LIMIT
Library	\$.25 per \$100.00 ( <b>#937</b> )
Police Protection	\$.075 per \$100.00
Social Security	\$ NO LIMIT
Tort Liability	\$ NO LIMIT

## ARTICLE III - SIMPLIFIED TELECOMMUNICATIONS TAX

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

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

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

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

- (1) any amounts added to a purchaser's bill because of a charge made pursuant to:
  - (a) the tax imposed by this Section,
  - (b) the tax imposed by the Telecommunications Excise Tax Act,
  - (c) the tax imposed by Section 4251 of the Internal Revenue Code,
  - (d) 911 surcharges, or
  - (e) charges added to customers' bills pursuant to the provisions of Section 9-221 or 9-222 of the Public Utilities Act, as amended, or any similar charges added to customers' bills by retailers who are not subject to rate regulation by the Illinois Commerce Commission for the purpose of recovering any of the tax liabilities or other amounts specified in those provisions of the Public Utilities Act.
- (2) charges for a sent collect telecommunication received outside the City.
- (3) charges for leased time on equipment or charges for the storage of data or information or subsequent retrieval or the processing of data or information intended to change its form or content. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment, or accounting equipment and also includes the usage of computers under a time-sharing agreement.
- (4) charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges.
- (5) charges to business enterprises certified as exempt under Section 9-222.1 of the Public Utilities Act to the extent of such exemption and during the period of time specified by the Department of Commerce and Economic Opportunity.
- (6) charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries when the tax imposed under this Act has already been paid to a retailer and only to

the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit for the corporation rendering such service.

- (7) bad debts ("bad debt" means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable federal income tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made).
- (8) charges paid by inserting coins in coin-operated telecommunications devices.
- (9) amounts paid by telecommunications retailers under the Telecommunications Infrastructure Maintenance Fee Act.
- (10) Charges for nontaxable services or telecommunications if:
  - (a) those charges are aggregated with other charges for telecommunications that are taxable,
  - (b) those charges are not separately stated on the customer bill or invoice, and
  - (c) the retailer can reasonably identify the nontaxable charges on the retailer's books and records kept in the regular course of business.

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

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

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

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

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

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

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

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

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

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

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

**36-3-2 SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX IMPOSED.** A tax is hereby imposed upon any and all of the following acts or privileges:

(A) The act or privilege of originating in the City or receiving in the City intrastate telecommunications by a person at a rate of **six percent (6%)** of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-municipal taxation of the act or privilege that is subject to taxation under this subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another municipality on that event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of the tax properly due and paid in the municipality that was not previously allowed as a credit against any other municipal tax.

(B) The act or privilege of originating in the City or receiving in the City interstate telecommunications by a person at a rate of **six percent (6%)** of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-state or multi-municipal taxation of the act or privilege that is subject to taxation under this Section, any taxpayer, upon proof that the taxpayer has paid a tax in another state or municipality in this State on such event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of such tax properly due and paid in such other state or such tax properly due and paid in a municipality in this State which was not previously allowed as a credit against any other state.

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

**36-3-3            COLLECTION OF TAX BY RETAILERS.**

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

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

**36-3-4            RETURNS TO DEPARTMENT.** On or before **April 1, 2020**, and on or before the last day of each month thereafter, the tax imposed under this Article on telecommunication retailers shall be returned with appropriate forms and information as required by the Department pursuant to the Illinois Simplified Municipal Telecommunications Tax Act (Public Act 92-526, Section 5-50) and any accompanying rules and regulations created by the Department to implement this Act.

**36-3-5            RESELLERS.**

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

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

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

**(Ord. No. 1428; 02-04-20)**

## ARTICLE IV – HOTEL/MOTEL TAX

**36-4-1**        **DEFINITIONS.** For the purpose of this Article, whenever any of the following words or definitions are used herein, they shall have the meaning ascribed to them in this Section:

(A)            **Hotel or Motel** means a building or buildings in which the public may, for a consideration, obtain living quarters, sleeping or housekeeping accommodations. The term includes, but is not limited to, inns, motels, tourist homes or courts, lodging houses, rooming houses and apartment house, retreat centers, conference centers, and hunting lodges.

(B)            **Owner** means any person having an ownership interest in, conducting the operation of a hotel or motel room, or receiving the consideration for the rental of such hotel or motel room.

(C)            **Person** means any natural person, trustee, court appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agency, government corporation, municipal corporation, district or other political subdivision, contractor, supplier, vendor, vendee, operator, user or owner, or any officers, agents, employees or other representative, acting either for himself or for any other person in any capacity, or any other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular or plural is included in any circumstances.

**(Ord. No. 1448; 06-02-20)**

**36-4-2**        **TAX IMPOSED.** There is hereby levied and imposed a tax of **five percent (5%)** of the rent charged for the privilege and use of renting a hotel or motel room within the City 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 person who rents a hotel or motel room for more than **thirty (30) consecutive days** or to a person who works and lives in the same hotel or motel.

**36-4-3**        **EXCLUSION.**

(A)            The ultimate incidence of, and liability for, payment of said tax is to be borne by the person who seeks the privilege 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 owner of every hotel or motel to secure said tax from the renter of the motel or hotel room, and to pay over to the City Clerk or any authorized representative of the City said tax under procedures prescribed by the City 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 receipt of the invoice, 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.

**36-4-4**        **BOOKS AND RECORDS.** The City Manager 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 City Manager or authorized representative in the discharge of their duties on the enforcement of this Chapter. It shall be the duty of every owner to keep accurate and complete books and records to which the City Manager 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, and
- (B) The actual hotel or motel tax receipts collected for the date in question.

**36-4-5            TRANSMITTAL OF TAX REVENUE.**

(A) Commencing on **May 1, 2000**, the owner or owners of each hotel or motel within the City shall file tax returns showing tax receipts received with respect to each hotel and motel room during each month commencing on **May 1, 2000**. The return shall be due on or before the last day of each succeeding calendar month, and the return shall indicate for what period the return is to be filed; i.e., return for January tax receipts is due on or before the last day of February.

(B) Commencing on **May 1, 2000**, the tax return and payment for such period shall be due on **June 30, 2000**. Thereafter, reporting periods and taxes shall be paid in accordance with the provisions of this Chapter. At the time of filing said tax returns, the owner shall pay to the City Clerk all taxes due for the period to which the tax return applies.

(C) If for any reason any tax is not paid when due, a penalty at the rate of **one and one-half percent (1 ½%)** per **thirty (30) day** period, or portion thereof from the date of delinquency, shall be added and collected.

**36-4-6            COLLECTION.** Whenever any person shall file to pay any tax as herein provided, the Corporation Counsel shall, upon the request of the City Council, bring, or cause to be brought, an action to enforce the payment of said tax on behalf of the City in any court of competent jurisdiction.

**36-4-7            PROCEEDS OF TAX AND FINES.** All proceeds resulting from the imposition of the tax under this Chapter, including penalties, shall be appropriated as follows:

(A) **Five percent (5%)** of the gross tax revenue collected each year shall be appropriated for and directed to the office of the City Clerk to defray the costs of administering and processing the imposition, application and collection of the tax.

(B) All the rest, residue and remainder of the Tax Revenue collected each year shall be paid into the Treasury of the City into a special fund to be used and applied for the promotion and development of tourism and conventions in the City.

(C) A committee shall be established as the "City of Breese Tourism Committee". The primary responsibility of this Tourism Committee is to convene as often as necessary and make recommendations to the City Council as to the orderly disbursement of funds collected.

**36-4-8            PENALTIES.** Any person, firm or corporation found willfully guilty of failing to pay, collect, report and transmit said hotel or motel tax to the City Clerk in accordance with the terms of this Chapter shall, except when otherwise specifically provided, upon conviction thereof, be punished by a fine not to exceed **Five Hundred Dollars (\$500.00)** for each offense. A separate and distinct offense shall be regarded as committed each day upon which said person shall continue any such violation or permit any such violation to exist after notification thereof.

**(Ord. No. 978; 04-04-00)**



## ARTICLE V - TAXPAYERS' RIGHTS CODE

**36-5-1**        **TITLE.** This Article shall be known as, and may be cited as, the "Locally Imposed and Administered Tax Rights and Responsibility Code".

**36-5-2**        **SCOPE.** The provisions of this Code shall apply to the City's procedures in connection with all of the City's locally imposed and administered taxes.

**36-5-3**        **DEFINITIONS.** Certain words or terms herein shall have the meaning ascribed to them as follows:

(A)            **Act.** "Act" means the "Local Government Taxpayers' Bill of Rights Act".

(B)            **Corporate Authorities.** "Corporate Authorities" means the City's Mayor and City Council.

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

(D)            **Local Tax Administrator.** "Local Tax Administrator", the City's Clerk, is charged with the administration and collection of the locally imposed and administered taxes, including staff, employees or agents to the extent they are authorized by the local tax administrator to act in the local tax administrator's stead. The local tax administrator shall have the authority to implement the terms of this Code to give full effect to this Code. The exercise of such authority by the local tax administrator shall not be inconsistent with this Code and the Act.

(E)            **City.** "City" means the City of Breese, Illinois.

(F)            **Notice.** "Notice" means each audit notice, collection notice or other similar notice or communication in connection with each of the City's locally imposed and administered taxes.

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

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

**36-5-4**        **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.

**36-5-5**        **LATE PAYMENT.** Any notice, payment, remittance or other filing required to be made to the City pursuant to any tax ordinance shall be considered late unless it is:

(A)            physically received by the City on or before the due date, or

(B)            received in an envelope or other container displaying a valid, readable U.S. postmark dated on or before the due date, properly addressed to the City, with adequate postage prepaid.

**36-5-6**        **PAYMENT.** Any payment or remittance received for a tax period shall be applied in the following order:

- (A) first to the tax due for the applicable period;
- (B) second to the interest due for the applicable period; and
- (C) third to the penalty for the applicable period.

**36-5-7**        **CERTAIN CREDITS AND REFUNDS.**

(A) The City shall not refund or credit any taxes voluntarily paid without written protest at the time of payment in the event that a locally imposed and administered tax is declared invalidly enacted or unconstitutional by a court of competent jurisdiction. However, a taxpayer shall not be deemed to have paid the tax voluntarily if the taxpayer lacked knowledge of the facts upon which to protest the taxes at the time of payment or if the taxpayer paid the taxes under duress.

(B) The statute of limitations on a claim for credit or refund shall be **two (2) years** after the end of the calendar year in which payment in error was made. The City shall not grant a credit or refund of locally imposed and administered taxes, interest, or penalties to a person who has not paid the amounts directly to the City.

(C) The procedure for claiming a credit or refund of locally imposed and administered taxes, interest or penalties paid in error shall be as follows:

- (1) The taxpayer shall submit to the local tax administrator in writing a claim for credit or refund together with a statement specifying:
  - (a) the name of the locally imposed and administered tax subject to the claim;
  - (b) the tax period for the locally imposed and administered tax subject to the claim;
  - (c) the date of the tax payment subject to the claim and the cancelled check or receipt for the payment;
  - (d) the taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and
  - (e) a request for either a refund or a credit in connection with the claim to be applied to the amount of tax, interest and penalties overpaid, and as applicable, related interest on the amount overpaid; provided, however, that there shall be no refund and only a credit given in the event the taxpayer owes any monies to the City.
- (2) Within **ten (10) days** of the receipt by the local tax administrator of any claim for a refund or credit, the local tax administrator shall either:
  - (a) grant the claim; or
  - (b) deny the claim, in whole or in part, together with a statement as to the reason for the denial or the partial grant and denial.
- (3) In the event the local tax administrator grants, in whole or in part, a claim for refund or credit, the amount of the grant for refund or credit shall bear interest at the rate of **five percent (5%)** per annum, based on a year of **three hundred sixty-five (365) days** and the number of days elapsed, from the date of the overpayment to the date of mailing of a refund check or the grant of a credit.

**36-5-8**        **AUDIT PROCEDURE.** Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this Code.

- (A) Each notice of audit shall contain the following information:
- (1) the tax;
  - (2) the time period of the audit; and
  - (3) a brief description of the books and records to be made available for the auditor.

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

(C) The taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted not less than **seven (7) days** nor more than **thirty (30) days** from the date the notice is given, unless the taxpayer and the local tax administrator agreed to some other convenient time. In the event taxpayer is unable to comply with the audit on the date in question, the taxpayer may request another date within the **thirty (30) days**, approved in writing, that is convenient to the taxpayer and the local tax administrator.

(D) Every taxpayer shall keep accurate books and records of the taxpayer's business or activities, including original source documents and books of entry denoting the transactions which had given rise or may have given rise to any tax liability, exemption or deduction. All books shall be kept in the English Language and shall be subject to and available for inspection by the City.

(E) It is the duty and responsibility of every taxpayer to make available its books and records for inspection by the City. If the taxpayer or tax collector fails to provide the documents necessary for audit within the time provided, the local tax administrator may issue a tax determination and assessment based on the tax administrator's determination of the best estimate of the taxpayer's tax liability.

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

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

### **36-5-9      APPEAL.**

(A) The local tax administrator shall send written notice to a taxpayer upon the local tax administrator's issuance of a protestable notice of tax due, a bill, a claim denial, or a notice of claim reduction regarding any tax. The notice shall include the following information:

- (1) the reason for the assessment;
- (2) the amount of the tax liability proposed;
- (3) the procedure for appealing the assessment; and
- (4) the obligations of the City during the audit, appeal, refund and collection process.

(B) A taxpayer who receives written notice from the local tax administrator of a determination of tax due or assessment may file with the local tax administrator a written protest and petition for hearing, setting forth the basis of the taxpayer's request for a hearing. The written protest and petition for hearing must be filed with the local tax administrator within **forty-five (45) days** of receipt of the written notice of the tax determination and assessment.

(C) If a timely written notice and petition for hearing is filed, the local tax administrator shall fix the time and place for hearing and shall give written notice to the taxpayer. The hearing shall be scheduled for a date within **fourteen (14) days** of receipt of the written protest and petition for hearing, unless the taxpayer requests a later date convenient to all parties.

(D) If a written protest and petition for hearing is not filed within the **forty-five (45) day** period, the tax determination, audit or assessment shall become a final bill due and owing without further notice.

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

**36-5-10**      **HEARING.**

(A)            Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under **Section 36-5-9**, above, the local tax administrator shall conduct a hearing regarding any appeal.

(B)            No continuances shall be granted except in cases where a continuance is absolutely necessary to protect the rights of the taxpayer. Lack of preparation shall not be grounds for a continuance. Any continuance granted shall not exceed **fourteen (14) days**.

(C)            At the hearing the local tax administrator shall preside and shall hear testimony and accept any evidence relevant to the tax determination, audit or assessment. The strict rules of evidence applicable to judicial proceedings shall not apply.

(D)            At the conclusion of the hearing, the local tax administrator shall make a written determination on the basis of the evidence presented at the hearing. The taxpayer or tax collector shall be provided with a copy of the written decision.

**36-5-11**      **INTEREST AND PENALTIES.** In the event a determination has been made that a tax is due and owing, through audit, assessment or other bill sent, the tax must be paid within the time frame otherwise indicated.

(A)            **Interest.** The City hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax to be **nine percent (9%)** per annum, based on a year of **three hundred sixty-five (365) days** and the number of days elapsed.

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

**36-5-12**      **ABATEMENT.** The local tax administrator shall have the authority to waive or abate any late filing penalty, late payment penalty or failure to file penalty if the local tax administrator shall determine reasonable cause exists for delay or failure to make a filing.

**36-5-13**      **INSTALLMENT CONTRACTS.** The City may enter into an installment contract with the taxpayer for the payment of taxes under the controlling tax ordinance. The local tax administrator may not cancel any installment contract so entered unless the taxpayer fails to pay any amount due and owing. Upon written notice by the local tax administrator that the payment is **thirty (30) days** delinquent, the taxpayer shall have **fourteen (14) working days** to cure any delinquency. If the taxpayer fails to cure the delinquency within the **fourteen (14) day** period or fails to demonstrate good faith in restructuring the installment contract with the local administrator, the installment contract shall be canceled without further notice to the taxpayer.

**36-5-14**      **STATUTE OF LIMITATIONS.** The City, through the local tax administrator, shall review all tax returns in a prompt and timely manner and inform taxpayers of any amounts due and owing. The taxpayer shall have **forty-five (45) days** after receiving notice of the reviewed tax returns to make any request for refund or provide any tax still due and owing.

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

(B) If any tax return is not filed or if during any **four (4) year** period for which a notice of tax determination or assessment may be issued by the City, the tax paid was less than **seventy-five percent (75%)** of the tax due, the statute of limitations shall be **six (6) years** maximum after the end of the calendar year in which return for the applicable period was due or end of the calendar year in which the return for the applicable period was filed.

(C) No statute of limitations shall not apply if a fraudulent tax return was filed by the taxpayer.

**36-5-15 VOLUNTARY DISCLOSURE.** For any locally imposed and administered tax for which a taxpayer has not received a written notice of an audit, investigation, or assessment from the local tax administrator, a taxpayer is entitled to file an application with the local tax administrator for a voluntary disclosure of the tax due. A taxpayer filing a voluntary disclosure application must agree to pay the amount of tax due, along with interest of **one percent (1%)** per month, for all periods prior to the filing of the application but not more than **four (4) years** before the date of filing the application. A taxpayer filing a valid voluntary disclosure application may not be liable for any additional tax, interest, or penalty for any period before the date the application was filed. However, if the taxpayer incorrectly determined and underpaid the amount of tax due, the taxpayer is liable for the underpaid tax along with applicable interest on the underpaid tax, unless the underpayment was the result of fraud on the part of the taxpayer, in which case the application shall be deemed invalid and void. The payment of tax and interest must be made by no later than **ninety (90) days** after the filing of the voluntary disclosure application or the date agreed to by the local tax administrator. However, any additional amounts owed as a result of an underpayment of tax and interest previously paid under this Section must be paid within **ninety (90) days** after a final determination and the exhaustion of all appeals of the additional amount owed or the date agreed to by the local tax administrator, whichever is longer.

**36-5-16 PUBLICATION OF TAX ORDINANCES.** Any locally administered tax ordinance shall be published via normal or standard publishing requirements. The posting of a tax ordinance on the Internet shall satisfy the publication requirements. Copies of all tax ordinances shall be made available to the public upon request at the City Clerk's office.

**36-5-17 INTERNAL REVIEW PROCEDURE.** The local tax administrator shall establish an internal review procedure regarding any liens filed against any taxpayers for unpaid taxes. Upon a determination by the local tax administrator that the lien is valid, the lien shall remain in full force and effect. If the lien is determined to be improper, the local tax administrator shall:

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

**36-5-18 APPLICATION.** This Ordinance shall be liberally construed and administered to supplement all of the City's tax ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with this ordinance, this ordinance shall be controlling.

**(Ord. No. 1003; 12-19-00)**

**ARTICLE VI – BUSINESS DISTRICT TAXES**

**DIVISION I – DOWNTOWN AND MAIN STREET**

**36-6-1 BUSINESS DISTRICT RETAILERS' OCCUPATION TAX.** A tax is hereby imposed to be known as the "Business District Retailers' Occupation Tax" 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 Downtown and Main Street 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. This "Business District Retailers' Occupation Tax" shall not be applicable to the sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, 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.

**36-6-2 BUSINESS DISTRICT SERVICE OCCUPATION TAX.** A tax is hereby imposed to be known as the "Business District Service Occupation Tax" upon all persons engaged, within the Downtown and Main Street 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. The tax shall be imposed at the same rate as the tax imposed in **Section 36-6-1** above upon the selling price of tangible personal property so transferred within the business district. The tax may 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 non-prescription 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.

**36-6-3 NOTICE TO ILLINOIS DEPARTMENT OF REVENUE.** Within **ninety (90) days** of commencement of construction of the initial business to be located within the Downtown and Main Street Business District, the City Clerk or other appropriate City staff, as assigned by the Mayor, are directed to provide the Illinois Department of Revenue (the "Department") with a certified copy of this Article and such other information required by the Department so that the Business District Retailers' Occupation Tax provided for in **Section 36-6-1** above, and the Business District Service Occupation Tax provided for in **Section 36-6-2** above may be administered and enforced by the Department, beginning on the following **January 1** or **July 1**, depending on and subject to the IDOR notification deadlines provided for in the Business District Law. Thereafter, the appropriate City staff are directed to provide any address change, addition, or deletion of businesses located within the Business District to the Department on or before **October 1** for administration and enforcement by the Department of the change beginning on the following **January 1** and on or before **April 1** for administration and enforcement by the Department of the change beginning on the following **July 1**.

**36-6-4 DOWNTOWN AND MAIN STREET BUSINESS DISTRICT TAX ALLOCATION FUND.** All proceeds of the taxes imposed, civil penalties, and interest, which accrues from the Business District Taxes imposed hereby, shall be deposited into a special fund of the City called the "Downtown and Main Street Business District Tax Allocation Fund" in accordance with the Business District Law.

**36-6-5**        **ENFORCEMENT.** The Illinois Department of Revenue shall have the authority to administer and enforce the Business District Retailers' Occupation Tax and the Business District Service Occupation Tax imposed under **Sections 36-6-1** and **36-6-2** of this Article.

**36-6-6**        **RESCINDING OF BUSINESS DISTRICT TAXES AND BUSINESS DISTRICT DISSOLUTION DATE.** When business district project costs, including, without limitation, all obligations paying or reimbursing business district project costs have been paid, any surplus funds then remaining in the Downtown and Main Street Business District Tax Allocation Fund shall be distributed to the municipal treasurer for deposit into the general corporate fund of the City. Upon payment of all business district project costs and retirement of all obligations paying or reimbursing business district project costs, but in no event more than **twenty-three (23) years** after the date of adoption of this Article imposing the taxes pursuant to the Business District Law, the City shall adopt an ordinance immediately rescinding the taxes imposed. The dissolution date of the Downtown and Main Street Business District shall be not later than **two hundred seventy (270) days** following payment to the City of the last distribution of taxes as provided in Section 11-74.3-6 of the Business District Law.

**(Ord. No. 1440; 03-17-20)**

## **DIVISION II – NEW HIGHWAY 50**

**36-6-7**        **BUSINESS DISTRICT RETAILERS' OCCUPATION TAX.** A tax is hereby imposed to be known as the "Business District Retailers' Occupation Tax" 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 New Highway 50 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. This "Business District Retailers' Occupation Tax" shall not be applicable to the sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, 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.

**36-6-8**        **BUSINESS DISTRICT SERVICE OCCUPATION TAX.** A tax is hereby imposed to be known as the "Business District Service Occupation Tax" upon all persons engaged, within the New Highway 50 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. The tax shall be imposed at the same rate as the tax imposed in **Section 36-6-7** above upon the selling price of tangible personal property so transferred within the business district. The tax may 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 non-prescription 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.

**36-6-9**        **NOTICE TO ILLINOIS DEPARTMENT OF REVENUE.** Within **ninety (90) days** of commencement of construction of the initial business to be located within the New Highway 50 Business District, the City Clerk or other appropriate City staff, as assigned by the Mayor, are directed to provide the Illinois Department of Revenue (the "Department") with a certified copy of this Article and such other information required by the Department so that the Business District Retailers' Occupation Tax

provided for in **Section 36-6-7** above, and the Business District Service Occupation Tax provided for in **Section 36-6-8** above may be administered and enforced by the Department, beginning on the following **January 1** or **July 1**, depending on and subject to the IDOR notification deadlines provided for in the Business District Law. Thereafter, the appropriate City staff are directed to provide any address change, addition, or deletion of businesses located within the Business District to the Department on or before **October 1** for administration and enforcement by the Department of the change beginning on the following **January 1** and on or before **April 1** for administration and enforcement by the Department of the change beginning on the following **July 1**.

**36-6-10**        **NEW HIGHWAY 50 BUSINESS DISTRICT TAX ALLOCATION FUND.** All proceeds of the taxes imposed, civil penalties, and interest, which accrues from the Business District Taxes imposed hereby, shall be deposited into a special fund of the City called the "New Highway 50 Business District Tax Allocation Fund" in accordance with the Business District Law.

**36-6-11**        **ENFORCEMENT.** The Illinois Department of Revenue shall have the authority to administer and enforce the Business District Retailers' Occupation Tax and the Business District Service Occupation Tax imposed under **Sections 36-6-7** and **36-6-8** of this Article.

**36-6-12**        **RESCINDING OF BUSINESS DISTRICT TAXES AND BUSINESS DISTRICT DISSOLUTION DATE.** When business district project costs, including, without limitation, all obligations paying or reimbursing business district project costs have been paid, any surplus funds then remaining in the New Highway 50 Business District Tax Allocation Fund shall be distributed to the municipal treasurer for deposit into the general corporate fund of the City. Upon payment of all business district project costs and retirement of all obligations paying or reimbursing business district project costs, but in no event more than **twenty-three (23) years** after the date of adoption of this Article imposing the taxes pursuant to the Business District Law, the City shall adopt an ordinance immediately rescinding the taxes imposed. The dissolution date of the New Highway 50 Business District shall be not later than **two hundred seventy (270) days** following payment to the City of the last distribution of taxes as provided in Section 11-74.3-6 of the Business District Law.

**(Ord. No. 1441; 03-17-20)**

### **DIVISION III – OLD HIGHWAY 50**

**36-6-13**        **BUSINESS DISTRICT RETAILERS' OCCUPATION TAX.** A tax is hereby imposed to be known as the "Business District Retailers' Occupation Tax" 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 Old Highway 50 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. This "Business District Retailers' Occupation Tax" shall not be applicable to the sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, 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.

**36-6-14**        **BUSINESS DISTRICT SERVICE OCCUPATION TAX.** A tax is hereby imposed to be known as the "Business District Service Occupation Tax" upon all persons engaged, within the Old Highway 50 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. The tax shall be imposed at the same rate as the tax imposed in **Section 36-6-13** above upon the selling price of tangible personal property so transferred within the business district. The tax may 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 non-prescription 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.

**36-6-15 NOTICE TO ILLINOIS DEPARTMENT OF REVENUE.** Within **ninety (90) days** of commencement of construction of the initial business to be located within the Old Highway 50 Business District, the City Clerk or other appropriate City staff, as assigned by the Mayor, are directed to provide the Illinois Department of Revenue (the "Department") with a certified copy of this Article and such other information required by the Department so that the Business District Retailers' Occupation Tax provided for in **Section 36-6-13** above, and the Business District Service Occupation Tax provided for in **Section 36-6-14** above may be administered and enforced by the Department, beginning on the following **January 1** or **July 1**, depending on and subject to the IDOR notification deadlines provided for in the Business District Law. Thereafter, the appropriate City staff are directed to provide any address change, addition, or deletion of businesses located within the Business District to the Department on or before **October 1** for administration and enforcement by the Department of the change beginning on the following **January 1** and on or before **April 1** for administration and enforcement by the Department of the change beginning on the following **July 1**.

**36-6-16 OLD HIGHWAY 50 BUSINESS DISTRICT TAX ALLOCATION FUND.** All proceeds of the taxes imposed, civil penalties, and interest, which accrues from the Business District Taxes imposed hereby, shall be deposited into a special fund of the City called the "Old Highway 50 Business District Tax Allocation Fund" in accordance with the Business District Law.

**36-6-17 ENFORCEMENT.** The Illinois Department of Revenue shall have the authority to administer and enforce the Business District Retailers' Occupation Tax and the Business District Service Occupation Tax imposed under **Sections 36-6-13** and **36-6-14** of this Article.

**36-6-18 RESCINDING OF BUSINESS DISTRICT TAXES AND BUSINESS DISTRICT DISSOLUTION DATE.** When business district project costs, including, without limitation, all obligations paying or reimbursing business district project costs have been paid, any surplus funds then remaining in the Old Highway 50 Business District Tax Allocation Fund shall be distributed to the municipal treasurer for deposit into the general corporate fund of the City. Upon payment of all business district project costs and retirement of all obligations paying or reimbursing business district project costs, but in no event more than **twenty-three (23) years** after the date of adoption of this Article imposing the taxes pursuant to the Business District Law, the City shall adopt an ordinance immediately rescinding the taxes imposed. The dissolution date of the Old Highway 50 Business District shall be not later than **two hundred seventy (270) days** following payment to the City of the last distribution of taxes as provided in Section 11-74.3-6 of the Business District Law.

**(Ord. No. 1442; 03-17-20)**