

CHAPTER 8.

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Article I. In General.

Sec. 8-1. Deposit of Annexation Fees.

All fees received for annexation by the Village shall be deposited in the water and sewer construction account number nine. (Ord. 68-17)

Article II. Leasing Occupation Tax.

Sec. 8-2. Imposed; Amount.

A tax is hereby imposed upon all persons engaged in the business of renting or leasing tangible personal property to the users thereof, at the rate of one-half ($\frac{1}{2}$) of one percent (1%) of the gross receipts from such renting or leasing made in the course of such business while this Article is in effect, in accordance with the provisions of 65 ILCS 5/8-11-6. (Ord. 65-36)

Sec. 8-3. Filing of Return with State Department of Revenue.

Every person engaged in any business specified in the above Section in the Village shall file with the State Department of Revenue the return in the manner as required by Section Five of the "Leasing Occupation Tax Act." as adopted by the 74th General Assembly. (Ord. 65-36)

Sec. 8-4. Payment to State Department of Revenue.

At the time the return required by Section 8-3 is filed, there shall be paid to the State Department of Revenue the amount of tax imposed by this Article on account of the receipts from renting or leasing tangible personal property during the preceding month. (Ord. 65-36)

Article III. Retailers' Occupation Tax.

(Amended in its Entirety by Ord. 69-62 and 94-110)

Sec. 8-5. Tax Rate; Exemptions.

A home rule 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 in the Village at the rate of one and three quarter percent (1.75%) of the gross receipts from such sales made in the course of such business. This Home Rule Municipal 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 nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes, and needles used by diabetics.

The imposition of this home rule tax is in accordance with the provisions of Section 8-11-1 of the Illinois Municipal Code (65 ILCS 5/8-11-1).

The tax hereby imposed and all civil penalties that may be assessed as an incident thereto shall be collected and enforced by the Department of Revenue of the State of Illinois. The Department of Revenue shall have full power to administer and enforce the provisions of this Section 8-5. (Ord. 96-61; 02-76; 11-41; 21-16; 24-18; 25-11)

Sec. 8-6. Monthly Report to State Department of Revenue.

Every person engaged in any business specified in the above Section in the Village shall file, on or before the twentieth day of each calendar month, the report to the State Department of Revenue required by Section Three of "An Act in Relation to a Tax upon Persons Engaged in the Business of Selling Tangible Personal Property to Purchasers for Use or Consumption," approved June 28, 1933, as amended. (Ord. 96-61)

Sec. 8-6.1. Payments to State Department of Revenue.

At the time the report required by Section 8-6 is filed, there shall be paid to the State Department of Revenue the amount of tax imposed by this Article on account of the receipts from sales of tangible personal property during the preceding month.

Sec. 8-7. Amendments to Article--Certified Copies and Publication Required.

A certified copy of any ordinance amending this Article III shall be transmitted by the Village Clerk to the Illinois Department of Revenue as soon as practicable after the passage of such amendment. Any ordinance amending this Article shall be published within ten (10) days of its enactment in the manner provided in Section 5/1-2-4 of the Illinois Municipal Code and shall be administered and enforced on the first day of January next following such adoption and filing as provided in Section 5/8-11-1 of the Illinois Municipal Code.

Article IV. Service Occupation Tax.

(Amended in its Entirety by Ord. 69-61 and 94-110)

Sec. 8-8. Tax Rate; Exemptions.

A home rule tax is hereby imposed upon all persons engaged in this municipality in the business of making sales of services at the rate of one and three quarter percent (1.75%) of the selling price of all tangible personal property transferred by such serviceman as an incident to a sale of service. This Home Rule Municipal Service 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 nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes, and needles used by diabetics.

The imposition of this home rule tax is in accordance with the provisions of Section 8-11-5 of the Illinois Municipal Code (65 ILCS 5/8-11-5).

The tax hereby imposed and all civil penalties that may be assessed as an incident thereto shall be collected and enforced by the Department of Revenue of the State of Illinois. The Department of Revenue shall have full power to administer and enforce the provisions of this Section 8-8. (Ord. 96-61; 02-76; 11-41; 21-16; 24-18; 25-11)

Sec. 8-9. Monthly Reports to State Department of Revenue.

Every supplier or serviceman required to account for a municipal service occupation tax for the benefit of this municipality shall file, on or before the twentieth day of each calendar month, the report to the State Department of Revenue required by Section Nine of the "Service Occupation Tax Act," approved July 10, 1961, as amended. (Ord. 96-61)

Sec. 8-9.1. Payments to State Department of Revenue.

At the time the report required by Section 8-9 is filed, there shall be paid to the State Department of Revenue the amount of tax imposed by this Article.

Sec. 8-10. Amendments to Article--Certified Copies and Publication Required.

A certified copy of any ordinance amending this Article IV shall be transmitted by the Village Clerk to the Illinois Department of Revenue not later than five (5) days after the passage of such amendment. Any ordinance amending this Article shall be published within ten (10) days of its enactment in the manner provided in Section 5/1-2-4 of the Illinois Municipal Code and shall be administered and enforced on the first day of January next following such adoption and filing as provided in Section 5/8-11-5 of the Illinois Municipal Code.

Article V. Economic Development and Pollution Control Facilities Bonds.

Sec. 8-11. Definitions.

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Economic development project means any land, interest in land, building, structure, facility, system, fixture, improvement, addition, appurtenance, machinery or equipment or any combination thereof and all real and personal property deemed necessary in connection therewith, for use by any person; provided that the existence of such economic development project will create or retain employment opportunities in the municipality.

Municipality means the Village of Addison, DuPage County, Illinois.

Person means any individual, partnership, copartnership, firm, company, corporation, including public utilities, association, joint stock company, trust, estate, political subdivision, State agency or any other legal entity or its legal representative, agent or assigns.

Pollution means any form of environmental pollution including, but not limited to, water pollution, air pollution, land pollution, solid waste pollution, thermal pollution, radiation contamination or noise pollution as determined by the various standards prescribed by this State, the federal government or other governmental entities and including but not limited to, anything which is considered as pollution or environmental damage to the Environmental Protection Act,

415 ILCS 5/1 *et seq.*, and any amendment thereto and substitution therefor.

Pollution control facility means any land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, addition, machinery or equipment or any combination thereof and all real and personal property deemed necessary therewith, having to do with or the end purpose of which is reducing, controlling or preventing pollution.

Project means any economic development project or pollution control facility or any combination thereof.

Project costs. Includes the sum total of all reasonable or necessary costs incidental to the acquisition, construction, reconstruction, repair, alteration, improvement and extension of a project including without limitation the cost of studies and surveys; plans, specifications, architectural and engineering services; legal, marketing or other special services; financing, acquisition, demolition, construction, equipment and site development of new and rehabilitated buildings, rehabilitation, reconstruction, repair or remodeling of existing buildings and all other necessary and incidental expenses including an initial bond and interest reserve together with interest on bonds issued to finance a project to a date six months subsequent to the estimated date of completion. (Ord. 74-08)

Sec. 8-12. Purpose.

It is hereby determined and declared that the purpose of this Article is to provide a financing device which will aid in financing the cost of projects in order to relieve conditions of unemployment and to encourage the increase of industry within the municipality, thereby reducing the evils attendant upon unemployment and to provide for the increased welfare and prosperity of the residents of the municipality; it is hereby further determined and declared to be the purpose of this Article to provide a financing device which will aid in financing the cost of pollution control facilities in order to eliminate, abate or reduce the serious dangers to the public health and welfare caused by environmental pollution. Such purposes are hereby declared and determined to be public purposes and functions pertaining to the government and affairs of the municipality. (Ord. 74-08)

Sec. 8-13. Powers of Municipality.

In addition to powers which it may now have, the municipality shall have the power under this Article:

- (A) To construct, acquire by gift, purchase or lease, reconstruct, improve, better or extend and to finance one or more projects, whether or not now or hereafter in existence, within the municipality and, if desirable, to acquire by gift, purchase or lease lands or rights in land in connection with any project.
- (B) To issue its revenue bonds to defray in whole or in part the project costs of any project and to designate an appropriate name for such bonds.
- (C) To rent, lease or sell any project to any person in such manner that payments to be

received with respect to the project shall produce revenues and receipts sufficient to provide for the prompt payment at maturity of principal, interest and redemption premiums, if any, upon all bonds issued to finance the cost of such project.

- (D) To pledge to the punctual payment of bonds authorized under this Article, the interest thereon and the redemption premiums, if any, the revenues and receipts to be received from such project.
- (E) To mortgage such project in favor of the holder or holders of bonds issued therefor.
- (F) To sell and convey such project, including without limitation, the sale and conveyance thereof subject to a mortgage, if any, as provided in this Article, for such price and at such time as the governing body of the municipality may determine. However, no sale or conveyance of such project shall ever be made in such manner as to impair the rights or interests of the holder or holders of any bonds issued to finance the project costs of such project.
- (G) To issue its bonds to refund in whole or in part, bonds theretofore issued by such municipality under authority of this Article.

Property acquired by the municipality pursuant to the provisions of this Article shall be exempt from the imposition and collection of taxes thereon while owned by the municipality, but the use of such property is subject to taxation to be paid by the lessee or occupant as provided in Section 26 of the "Revenue Act of 1939" filed May 17, 1939, or as may hereafter be amended. (Ord. 74-08)

Sec. 8-14. Exercise of Powers and Issuance of Bonds Generally.

The exercise of all powers granted by this Article may be authorized and bonds may be authorized to be issued under this Article for the purposes set forth in this Article, by ordinance of the governing body of the municipality which may be adopted at the same meeting at which it is introduced and shall take effect immediately upon adoption. The bonds shall bear interest at such rate or rates, payable at such times, may be in one (1) or more series, may bear such date or dates, may mature at such time or times not exceeding forty (40) years from their respective dates, may be payable in such medium of payment at such place or places, may carry such registration privileges, may be subject to such terms of redemption at such premiums, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form, either coupon or registered, as such ordinance may provide or as may be subsequently determined by the governing body before the bonds are issued. The bonds may be sold at public or private sale in such manner and upon such terms as may be deemed advisable by the governing body of the municipality. Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the governing body of the municipality may determine, may be issued to the purchaser or purchasers of bonds sold pursuant to this Article. The bonds and interim receipts or certificates shall be deemed to be securities and negotiable instruments within the meaning and for all purposes of the "Uniform Commercial Code." (Ord. 74-08)

Sec. 8-15. Covenants in Bonds.

Any ordinance authorizing the issuance of bonds under this Article may contain covenants as to:

- (A) The use and disposition of the revenues and receipts from the project for which the bonds are to be issued, including the creation and maintenance of reserves;
- (B) The issuance of other or additional bonds relating to the project or any rehabilitation, improvements, renovations, enlargements or additions thereto;
- (C) The maintenance and repair of such project;
- (D) The insurance to be carried thereon and the use and disposition of insurance moneys;
- (E) The appointment of any bank or trust company within or outside the State, having the necessary trust powers as trustee for the benefit of the bondholders, paying agent and bond registrar;
- (F) The investment of any funds held by such trustee; and
- (G) The terms and conditions upon which the holders of the bonds or any portion thereof or any trustee therefor, are entitled to the appointment of a receiver.

Any ordinance authorizing the issuance of bonds under this Article may provide that the principal of and interest on any bonds issued under this Article shall be secured by a mortgage or indenture of trust covering such project for which the bonds are issued and may include any improvements or extensions thereafter made. Such mortgage or indenture of trust may contain such covenants and agreements to properly safeguard the bonds as may be provided for in the ordinance authorizing such bonds and shall be executed in the manner as may be provided for in the ordinance. The provisions of this Article and any such ordinance or ordinances and any such mortgage or indenture of trust shall constitute a contract with the holder or holders of the bonds and continue in effect until the principal of, the interest on and the redemption premiums, if any, on the bonds so issued have been fully paid and the duties of the municipality and its corporate authorities and officers under this Article and any such ordinance or ordinances and any such mortgage or indenture of trust shall be enforceable by any bondholder by mandamus, foreclosure of any such mortgage or indenture of trust or other appropriate suit, action or proceedings in any court of competent jurisdiction; provided, the ordinance or any mortgage or indenture of trust under which the bonds are issued may provide that all such remedies and rights to enforcement may be vested in a trustee for the benefit of all the bondholders which trustees shall be subject to the control of a majority of the holders or owners of any outstanding bonds. (Ord. 74-08)

Sec. 8-16. Signatures; Validity.

The bonds issued under this Article shall bear the signatures of such officers of the municipality as may be designated in the ordinance authorizing such bonds and such signatures shall be the valid and binding signatures of the officers of the municipality, notwithstanding that before the delivery thereof and payments therefor any or all of the persons whose signatures appear thereon have ceased to be officers of the municipality issuing such bonds. The validity of the bonds is not dependent on nor affected by the validity or regularity of any proceedings relating to the acquisition, purchase, construction, reconstruction, improvement, equipping,

betterment or extension of the project for which the bonds are issued. The ordinance authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to this Article, which recital shall be conclusive evidence of their validity and of the regularity of their issuance. (Ord. 74-08)

Sec. 8-17. Lien on Project Revenues and Receipts.

All bonds issued under this Article have a lien upon the revenues and receipts derived from the project for which the bonds have been issued and the governing body may provide in the ordinance or ordinances authorizing such bonds for the issuance of additional bonds to be equally and ratably secured by a lien upon such revenues and receipts or may provide that the lien upon such revenues and receipts is subordinate. (Ord. 74-08)

Sec. 8-18. Liability for Bonds.

All bonds issued under and pursuant to this Article shall be limited obligations of the municipality payable solely out of the revenues and receipts derived from the project with respect to which such bonds are issued. No holder of any bonds issued under this Article has the right to compel any exercise of taxing power of the municipality to pay the bonds, the interest or premium, if any, thereon and the bonds do not constitute an indebtedness of the municipality or a loan of credit thereof within the meaning of any constitutional or statutory provision. It shall be plainly stated on the face of each bond that it has been issued under the provisions of this Article and that it does not constitute an indebtedness of the municipality or a loan of credit thereof within the meaning of any constitutional or statutory provisions. (Ord. 74-08)

Sec. 8-19. Investment of Funds.

The municipality, or any trustee on behalf of the municipality, may invest any funds held by it pursuant to this Article in bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of the United States of America; in certificates of deposit or time deposits constituting direct obligations of any bank as defined by the Illinois Banking Act, as heretofore and hereafter amended; provided, that investments may be made only in those certificates of deposits in banks which are insured by the Federal Deposit Insurance Corporation, if then in existence, or in short term discount obligations of the Federal National Mortgage Association. Any such securities may be purchased at the offering or market price thereof at the time of such purchase. (Ord. 74-08)

Sec. 8-20. Exemption from Construction and Bidding Requirements for Public Buildings.

The acquisition and construction of a project shall not be subject to any requirements relating to public buildings, structures, grounds, works or improvements imposed by the Illinois Revised Statutes or any other similar requirements which may be lawfully waived by this Section and any requirements of competitive bidding or restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property of the municipality is not applicable to any action taken under authority of this Article. (Ord. 74-08, §10)

Sec. 8-21. Powers Conferred to be Supplemental.

The powers conferred by this Article are in addition and supplemental to, and the limitations imposed by this Article shall not affect the powers conferred by any law or any provision of this Code or other ordinances of the city. Projects may be acquired, purchased, constructed, reconstructed, improved, bettered, equipped, extended and financed and bonds may be issued under this Article for such purposes, notwithstanding that any law or any other ordinance may provide for the acquisition, purchase, construction, reconstruction, improvement, equipping, betterment, extension and financing of a like project or the issuance of bonds for like purposes and without regard to the requirements, restrictions, limitations or other provisions contained in any law or any other ordinance. (Ord. 74-08)

Article VI. Municipal Use Tax.

Sec. 8-22. Imposed; Amount.

A tax is hereby imposed in accordance with the provision of 65 ILCS 5/8-11-6, upon the privilege of using in the municipality any item of tangible personal property which is purchased outside Illinois at retail from a retailer, and which is titled or registered with an agency of the State government. The tax shall be at a rate of one percent (1%) of the selling price of such tangible property with the selling price to have the meaning as defined in the Use Tax Act, approved July 14, 1955. (Ord. 74-51)

Sec. 8-23. Collection.

Such tax shall be collected by the State Department of Revenue for all municipalities imposing the tax and shall be paid before the title or certificate of registration for the personal property is issued. (Ord. 74-51)

Article VII. Real Estate Transfer Tax.

Sec. 8-24. Imposition of Tax on Transfer by Deed.

A tax is imposed on the privilege of transferring title to real estate within the corporate limits of the Village, as represented by the deed or other transfer document that is filed for recordation, at the rate of two dollars and fifty cents (\$2.50) for each one thousand dollars (\$1,000.00) of value or fraction thereof stated in the declaration provided for in this Article. The tax herein levied shall be in addition to any and all other taxes. (Ord. 79-14; 93-60; 04-29; 18-18)

Sec. 8-25. Liability for Tax.

The ultimate incidence of and liability for payment of the tax imposed by this Article shall be borne by the grantee of any deed subject to this Article. (Ord. 79-14; 93-60)

Sec. 8-26. Purchase of Stamps.

The tax levied by this Article shall be paid by purchase of tax stamps from the director of finance or his designated agent. The payment of such tax shall be denoted by an adhesive stamp or stamps affixed to the face of the deed. (Ord. 79-14; 92-91)

Sec. 8-27. Filing of Declaration.

At such time as the tax levied by this Article is paid, there shall be filed with the Director of Finance a fully executed and completed copy of the "real estate transfer declaration" required by the provisions of 415 ILCS 5/3. (Ord. 79-14, 92-91)

Sec. 8-28. Exemptions.

(A) The following shall be exempt from the tax levied by this Article:

- (1) Deeds to or trust documents relating to property acquired by any governmental body or from any governmental body or deeds to or documents relating to property or interests transferred between governmental bodies, or by or from any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes; except that such deeds or trust documents, other than those in which the Administrators of Veterans' Affairs of the United States of America is the grantee pursuant to a foreclosure proceeding shall not be exempt from filing the declaration.
- (2) Deeds or trust documents which secure debt or other obligation.
- (3) Deeds or trust documents which, without additional consideration, confirm, correct, modify, or supplement a deed or trust document previously recorded.
- (4) Deeds or trust documents where the actual consideration is less than one hundred dollars (\$100.00).
- (5) Tax deeds.
- (6) Deeds or trust documents of release of property which is security for a debt or other obligation.
- (7) Deeds of partition.
- (8) Deeds or trust documents made pursuant to mergers, consolidations, or transfers or sales of substantially all of the assets of corporations pursuant to plans of reorganization.
- (9) Deeds or trust documents made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock.
- (10) Deeds wherein there is an actual exchange of real state and trust documents wherein there is an actual exchange of beneficial interests, except that that money difference or money's worth paid from one to the other shall not be exempt from the tax.
- (11) Deeds representing transfers subject to the imposition of a documentary stamp tax

imposed by the government of the United States, except that such deeds shall not be exempt from filing the declaration.

- (12) Deeds issued to a holder of a mortgage, as defined in Section 15-103 of the Code of Civil Procedure, pursuant to a mortgage foreclosure proceeding or pursuant to a transfer in lieu of foreclosure.
 - (13) A deed or trust document related to the purchase of a principal residence by a participant in the program authorized by the Home Ownership Made Easy Act, except that those deeds and trust documents shall not be exempt from filing the declaration.
 - (14) A deed wherein the grantee(s) thereof have contemporaneously sold an owner-occupied, single family detached or attached dwelling or condominium within the boundaries of the Village of Addison, in which the grantee(s) had resided for at least one year prior to the date of said deed. Proof, to the Village's reasonable satisfaction, of the one-year residence period shall be provided by the grantee(s) claiming the exemption. (Ord. 97-28; 04-107)
- (B) Every deed or trust document which is tax exempt pursuant to this section shall be presented to the Director of Finance so as to be appropriately marked by said Director of Finance as exempt and eligible for recordation without the payment of tax. At such time as a deed or trust document is presented to the Director of Finance pursuant to this section, there shall be filed with the Director of Finance a certificate setting forth the facts which justify the exemption of the deed or trust document presented. The certificate shall be executed on behalf of either the grantor or grantee, and shall be on a form provided by the Director of Finance. The applicant for exemption shall submit a fifty dollar (\$50.00) administrative fee for review of the application and issuance of the certificate. (Ord. 79-14; 87-05; 92-91; 93-41; 11-29)

Sec. 8-29. Real Estate Transfer Tax Stamps.

The tax herein levied and imposed shall be collected by the Director of Finance of the Village through the sale of real estate transfer tax stamps, which shall be caused to be prepared by said Director of Finance in such quantities as said Director of Finance ap from time to time prescribe. Such stamps shall be available for sale at and during the regular business hours of the Village offices and the offices of such agent as the Village may designate. Upon payment of the tax herein levied and imposed, the stamps so purchased shall be affixed to the deed or other instrument of conveyance as required by this ordinance. Any person so using and affixing a stamp shall cancel it and so deface it as to render it unfit for reuse by marking it with his initials and the day, month and year when the affixing occurs. Such marking shall be made by writing or stamping in indelible ink or by perforating with a machine or punch, however, the stamp(s) shall not be so defaced as to prevent ready determination of its denomination and genuineness. The Addison real estate transfer tax stamp shall be of a design substantially as shown below. (Ord. 79-14; 92-91)

Real Estate Transfer Tax
00.00
Addison

Sec. 8-30. Recordation of Deeds.

After the effective date of this Article, no deed conveying real property within the corporate limits of the Village shall be entitled to recordation by the recorder of deeds for DuPage County unless such deed shall bear either an Addison real estate transfer tax stamp in the amount required by this Article, or an exemption mark from the Addison Director of Finance. (Ord. 79-14; 92-91)

Sec. 8-31. Imposition of Tax on Transfer of Beneficial Interest.

A tax is imposed on the privilege of transferring the beneficial interest in real estate within the corporate limits of the Village at the rate of one dollar and twenty-five cents (\$1.25) for each five hundred dollars (\$500.00) of value or fraction thereof stated in the declaration provided for in this Ordinance. The tax herein levied shall be in addition to any and all other taxes. (Ord. 79-14; 93-60)

Sec. 8-32. Liability for Tax.

The ultimate incidence of and liability for payment of the tax imposed by this Article shall be borne by the grantee, assignee, or transferee of any instrument conveying the beneficial interest in real estate within the corporate limits of the Village. (Ord. 79-14; 87-5; 93-60)

Sec. 8-33. Purchase of Stamps.

The tax levied by this Ordinance shall be paid by the purchase of tax stamps from the Director of Finance or his designated agent. The payment of such tax shall be denoted by an adhesive stamp or stamps affixed to the face of the instrument transferring the beneficial interest. (Ord. 79-14; 92-91)

Sec. 8-34. Filing of Declaration.

At such time as the tax levied by this Ordinance is paid, there shall be filed with the Director of Finance a declaration of the full consideration paid for the transfer of beneficial interest, which declaration shall be on a form provided by the Director of Finance and executed by the person liable for the tax. (Ord. 79-14, 92-91)

Sec. 8-34.1. Filing of Certification of Inspection for Inflow and Infiltration.

The Director of Finance shall not issue real estate transfer tax stamps unless an inflow and infiltration inspection of the premises has been conducted as provided in Section 20-48.2 of this Code. If the owner presents a certificate of compliance, the Director of Finance shall issue the real estate transfer tax stamps, provided the requirements of this Article are met.

If the owner presents a certificate of non-compliance, real estate transfer tax stamps will

not be issued unless the purchaser of the property: (1) signs an agreement to have the property brought into compliance within ninety (90) days and (2) deposits a cash escrow with the Director of Finance in an amount equal to the maximum Village reimbursement for its private sector disconnection program (*see*, Ord. 91-20). (Ord. 91-19; 92-91)

Sec. 8-34.2. Filing of Certification of No Expired Building Permits, Code Violations, Unpaid Multi-Family License/Reinspection Fees and Unpaid Water, Garbage, Refuse and/or Sewer Charges

- A. Upon receipt of an application for the issuance of real estate transfer tax stamps, the Director of Finance, or his designee, shall promptly cause a compliance check to be initiated by request to the Director of Community Development. The compliance check shall be solely for the purpose of ascertaining whether there are any outstanding building, property maintenance or housing code issues with respect to the property for which stamps have been requested. The Director of Community Development, or his designee, shall determine:
- (1) whether the property has been cited for code violations and, if so, whether those code violations have been remedied;
 - (2) whether work performed pursuant to a building permit issued by the Village has been completed and has been inspected and given final approval by the Village;
 - (3) whether any building or inspection-related fees, including multi-family license or inspection fees, are due and owing the Village; and
 - (4) whether costs incurred by the Village related to all outstanding multi-family license fees, reinspection fees, fines, penalties and costs related to the property maintenance code violations are due and owing to the Village.
- B. If the Director of Community Development issues a certificate of compliance, the Director of Finance shall issue the real estate transfer tax stamps, provided all other requirements of this Article are met.
- C. If the Director of Community Development issues a certification of noncompliance, real estate transfer tax stamps shall not be issued unless:
- (1) the purchaser of the property signs an agreement to correct all code violations and to complete, have inspected and have approved all building permit related work within sixty (60) days; and
 - (2) either the owner or the seller has paid all outstanding multi-family license fees, reinspection fees, fines, penalties and costs related to the property maintenance code violations.
- D. Upon receipt of an application for issuance of real estate transfer tax stamps, the Village Director of Finance, or his designee, shall promptly cause a compliance check to

determine whether there are any outstanding water, garbage, refuse and/or sewer charges with respect to the property for which stamps have been requested. If the Director of Finance determines that there are no outstanding water, garbage, refuse and/or sewer charges, the Director of Finance shall issue the transfer tax stamps, provided that all other requirements of this Article are met. If the Director of Finance determines that there are outstanding water, garbage, refuse and/or sewer charges, real estate transfer tax stamps shall not be issued unless and until such water, garbage, refuse and/or sewer charges, plus any outstanding fees, fines, penalties and costs related to the property, are paid in full. (Ord. 04-29; 06-94; 11-29; 24-62)

Sec. 8-35. Real Estate Transfer Tax Stamps.

The tax herein levied and imposed shall be collected by the Director of Finance of the Village through the sale of real estate transfer tax stamps as provided in Section 8-29. (Ord. 79-14; 92-91)

Sec. 8-36. Duty of Trustee.

No trustee of real estate shall accept an assignment of beneficial interest in real estate located in the Village unless tax stamps in the required amounts, as set forth in this Ordinance have been affixed to the assignment. (Ord. 79-14)

Sec. 8-37. Definitions.

For the purpose of this Chapter the following words shall have the meanings herein ascribed to them:

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

Value means the amount of the full actual consideration for the real property, including the amount of any lien on the real property assumed by the buyer.

Trust document means a document required to be recorded under the Land Trust Recordation and Transfer Tax Act.

Beneficial interest includes, but is not limited to:

- (1) the beneficial interest in an Illinois land trust;
- (2) the lessee interest in a ground lease (including any interest of the lessee in the related improvements) that provides for a term of thirty (30) or more years when all options to renew or extend are included, whether or not any portion of the term has expired; or
- (3) the indirect interest in real property as reflected by a controlling interest in a real estate entity per Illinois statute.

Recordation means the recording of deeds or other transfer documents by the Recorder of Deeds for DuPage County, Illinois. (Ord. 79-14; 18-18)

Sec. 8-38. Proceeds of Tax.

All proceeds resulting from the collection of the tax imposed by this Ordinance, including interest and penalties, shall be paid into the treasury of the Village of and shall be credited to and deposited in the general fund of the Village. (Ord. 79-14)

Sec. 8-39. Interest and Penalties.

In the event of failure by any person to pay to the Director of Finance the tax required hereunder when the same shall be due, interest shall accumulate and be due upon said tax at the rate of one percent (1%) per month commencing as of the first day following the day when the deed was recorded or the assignment of beneficial interest was accepted by the trustee. In addition, a penalty of fifty percent (50%) of the tax and interest due shall be assessed and collected against any person who shall fail to pay the tax imposed by this Ordinance. (Ord. 79-14; 92-91)

Sec. 8-40. Civil Liability for Tax.

In the event of failure by any person to pay to the Director of Finance the tax required hereunder when the same shall be due, said person shall be liable to the Village for such tax, together with interest and penalties. The Village may bring an action to collect such tax, interest and penalties in any court of competent jurisdiction. (Ord. 79-14, 92-91)

Sec. 8-41. Fine for Violation.

In addition to the remaining provisions of this Ordinance, any person found guilty in a court of competent jurisdiction of violating, disobeying, omitting, neglecting or refusing to comply with any provision of this Ordinance, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00) for each offense. (Ord. 79-14)

Sec. 8-42. Outstanding Water and Sewer Charges.

At the time that application is made for tax stamps hereunder, the Director of Finance shall determine whether there are any outstanding water and sewer charges due to the Village with respect to the subject property. If there are outstanding charges, prior to the issuance of the tax stamps hereunder, the grantor shall provide a statement, signed by the prospective grantee, acknowledging that said grantee is aware of the existence of said outstanding charges and his liability therefor. (Ord. 87-5, 92-91)

Sec. 8-42.1. Severability.

If any clause, sentence, section, provision or part of this Article VII or the application thereof to any person or circumstance shall be adjudged to be unconstitutional, the remainder of this Article or its application to persons or circumstances other than those to which it is held invalid shall not be affected thereby. (Ord. 79-14; 87-5)

Article VIII. Automobile Renting Occupation Tax.

Sec. 8-43. Tax Imposed; Amount.

A tax is hereby imposed upon all persons engaged in the business of renting automobiles in this Village at the rate of one percent of the gross receipts from such rentals made in the course of such business while this Article is in effect in accordance with the provisions of Section 8-11-7 of the Illinois Municipal Code. (Ord. 82-03)

Sec. 8-44. Filing of Report with State Department of Revenue.

Every such person engaged in such business in the Village shall file on or before the last day of each calendar month, the report to the State Department of Revenue required by Sections Two and Three of "An Act in Relation to a Tax Upon Persons Engaged in the Business of Selling Tangible Personal Property to Purchasers for Use or Consumption", approved June 29, 1933, as amended. (Ord. 82-03)

Sec. 8-45. Payment to State Department of Revenue.

At the time such report is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed on account of the renting of automobiles during the preceding month. (Ord. 82-03)

Article IX. Automobile Renting Tax.

Sec. 8-46. Tax Imposed; Amount.

A tax is hereby imposed upon the privilege of using in this Village an automobile which is rented from a renter outside Illinois and which is titled or registered with an agency of this state's government in this Village at the rate of one percent of the rental price of such automobile while this Article is in effect, in accordance with the provisions of Section 8-11-8 of the Illinois Municipal Code. (Ord. 82-02)

Sec. 8-47. Parties Subject to Tax.

The tax provided for in this Article shall be collected from the persons whose Illinois address for titling or registration purposes is given as being in this Village. (Ord. 82-02)

Sec. 8-48. Payment to Illinois Department of Revenue.

The tax imposed by this Article shall be paid to the Illinois Department of Revenue. (Ord. 82-02)

Sec. 8-49. repealed by Ord. 82-02.

Article X. Hotel-Motel Room Tax.

Sec. 8-50. Tax Imposed; Amount Exemption.

A tax is hereby levied and imposed upon the use and privilege of renting, leasing or

letting of rooms in a hotel or motel in the Village of Addison at a rate of five percent (5%) of the gross rental receipts from such rental, leasing or letting. The ultimate incidence of and liability for payment of said tax shall be borne by the user, lessee or tenant of said rooms. The tax herein levied shall be in addition to any and all other taxes. Gross rentals shall not include (a) proceeds from renting, leasing or letting to permanent residents of the establishment and (b) such other deductions from the State "Hotel Operators' Occupation Tax Act", 35 ILCS 145/1 *et seq.*, as determined by the Illinois Department of Revenue pursuant to its Publication 106. (Ord. 82-01; 13-22; 17-03)

Sec. 8-51. Definitions.

Hotel means any building or buildings in which the public may, for a consideration, obtain living quarters, sleeping or housekeeping accommodations. The term includes inns, motels, tourist homes or courts, lodging houses, rooming houses and apartment houses.

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. (Ord. 82-01)

Sec. 8-52. Payment and Collection.

The owner and operator of each hotel and motel and the person to whom the license to operate said hotel or motel shall have been issued by the Village, shall bear jointly and severally, the duty to collect the tax from each user, lessee or tenant of rooms in such hotel or motel. Every person required to collect the tax levied by ordinance shall secure said tax from the user, lessee or tenant of a room or rooms at the time that he collects the price, charge or rent to which it applies. (Ord. 82-01)

Sec. 8-53. Administration and Procedure; Sworn Tax Return.

The Finance Director is hereby designated as the administrative and enforcement officer of the tax imposed by this Article. It shall be the responsibility and duty of the Finance Director and licensees of hotels and motels in the Village of Addison. A sworn monthly hotel and motel occupancy tax return shall be filed by each owner, operator or licensee of each hotel or motel in the Village of Addison with the Finance Director, on forms prescribed by him, showing all receipts from each renting, leasing or letting of rooms during the preceding month. This monthly tax return shall be filed with the collector's office by the fifteenth day of the month for the preceding month's receipts. In the event payment is not made in a timely manner as herein provided, an interest charge equal to one and one-half percent (1½%) per month, or the maximum interest rate permitted by law, shall be assessed and added to the outstanding balance of any late tax payments due the Village. (Ord. 05-36)

Each return shall be accompanied by payment to the Village of all taxes due and owing for the month covered by the return.

The Finance Director or any person certified by him as his deputy or representative may enter the premises of any hotel or motel for the purpose of inspection and examination of books and records for the proper administration of this Article and for the enforcement of collection of this tax. It is unlawful for any person to prevent, hinder or interfere with the Finance Director or his representative in the discharge of his duties under this Article.

Sec. 8-54. Enforcement and Penalty.

Whenever any person shall fail to pay any tax as provided by this Article or when any owner, operator or licensee of a hotel or motel in the Village shall fail to collect the tax from any person who has the ultimate liability for payment of same, the Village attorney shall, upon request of the Finance Director, bring or cause to be brought an action to enforce the payment of said tax on behalf of the Village in any court of competent jurisdiction.

If the Village Manager, after a hearing held by or for him, shall find that any hotel or motel owner, operator or licensee has willfully evaded his responsibility to collect the tax imposed by this Article, he may suspend or revoke all Village licenses held by such person. Said person shall have an opportunity to be heard at such hearing, to be held not less than five (5) days after notice of the time and place of the hearing. Such notice shall be mailed to the last known address of the business. Any suspension or conviction resulting from such hearing shall not relieve or discharge any civil liability for nonpayment of the tax due.

Sec. 8-55. Deposit and Use of Taxes Collected.

The amounts collected by the Village pursuant to this Article shall be deposited in the general corporate fund of the Village and shall be used for any lawful purposes of said fund. (Ord. 82-01; 89-76)

Article XI. Taxpayer Bill of Rights.
(Established by Ord. 00-112)

Sec. 8-56. Definitions.

For the purposes of this Article, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this Section:

Locally imposed and administered tax means a tax imposed by the Village that is collected or administered by the Village and not an agency or department of the State. A "locally imposed and administered tax" does not include a tax imposed upon real property under the Property Tax Code or fees collected by the Village other than infrastructure maintenance fees.

Local tax administrator means the Finance Director of the Village or other Village government officers charged with the administration or collection of a locally imposed and administered tax, including their staffs, employees, or agents to the extent they are authorized by the Finance Director to act in the Finance Director's stead.

Sec. 8-57. Application of Tax Payments.

Any payment or remittance of a locally imposed and administered tax shall be applied to the taxpayer's outstanding tax liability for the tax period in the following order:

- (1) tax for the period; then
- (2) interest due for the period; then

- (3) penalties due for the period.

Sec. 8-58. Late Payment.

Any notice, payment, remittance or other filing required to be made to the Village pursuant to any Village 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.

Sec. 8-59. Interest.

Interest shall accrue and be assessed at the rate of one percent (1%) per month for any late payment, underpayment, or nonpayment of a locally imposed and administered tax.

Sec. 8-60. Late Filing Penalties.

Late filing penalties shall be imposed at five percent (5%) of the amount of tax required to be shown as due on a return. A late filing penalty may not apply if a failure to file penalty is imposed by the Village pursuant to Section 8-62. The Finance Director may determine that the late filing was due to reasonable cause and abate the penalty.

Sec. 8-61. Late Payment Penalty.

Late payment penalties shall be assessed at five percent (5%) of the tax due and not timely paid or remitted to the Village. This penalty shall not apply if a failure to file penalty is imposed by the Village pursuant to Section 8-62. The Finance Director may determine that the late payment was due to reasonable cause and abate the penalty.

Sec. 8-62. Failure to File Penalty.

If no return is filed before the issuance of a notice of tax deficiency or of tax liability to the taxpayer, a failure to file penalty shall be assessed at twenty-five percent (25%) of the total tax due for the applicable reporting period for which the return was required to have been filed. The Finance Director may determine that the failure to file a return was due to reasonable cause and abate the penalty.

Sec. 8-63. Credits and Refunds.

No refund or credit of any taxes voluntarily paid without written protest at the time of payment shall be made even though a Village tax may be declared invalidly enacted or unconstitutional by a court of competent jurisdiction. A taxpayer shall not be deemed to have paid a 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. 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 or remittance in error was made. The Village shall not be required to grant a

credit or refund of taxes, interest, or penalties to a person who has not paid or remitted the amounts directly to the Village. The rate of interest for overpayment of tax shall be five percent (5%) simple interest per annum.

Sec. 8-64. Credit and Refund Claim Procedure.

The procedure for claiming a credit or refund of locally imposed and administered taxes, interest or penalties paid in error shall be as follows. The taxpayer shall submit to the Finance Director 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 owed, and, as applicable, related interest and penalties; provided, however, that there shall be no refund and only a credit given in the event the taxpayer owes any monies to the Village.

Within ten (10) days of the receipt by the Finance Director of any claim for a refund or credit, the Finance Director 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.

Sec. 8-65. Statute of Limitations Regarding Locally Imposed and Administered Taxes.

In accordance with state law, the Village hereby determines that the applicable limitations period for the determination and assessment of locally imposed and administered taxes shall be as follows:

- (A) No notice of determination of tax due or assessment may be issued more than four (4) years after the end of the calendar year for which the return for the period was filed or the end of the calendar year in which the return for the period was due, whichever occurs later.
- (B) If any tax return was not filed or if during any four (4) year period for which a notice of tax determination or assessment may be issued by Village the tax paid or remitted was less than seventy five percent (75%) of the tax due for that period, the limitations period shall be six (6) years after the end of the calendar year in which the return for the period was due or the end of the calendar year in which the return for the period was filed, whichever occurs later.

- (C) This Section does not place any limitation on an action by the Village for taxes due or payable if a fraudulent tax return is filed.

Sec. 8-66. Audit Procedures.

Taxpayers must be notified in writing of a proposed audit by the Village of the taxpayer's books and records. The notice of audit must specify the tax and time period to be audited and must detail the minimum documentation or books and records to be made available to the auditor. Audits must be held only during reasonable times of the day and unless impracticable, at times agreed to by the taxpayer. An auditor who determines that there has been an overpayment of tax during the course of the audit is obligated to identify the overpayment to the taxpayer so that the taxpayer can take the necessary steps to recover the overpayment. If the overpayment is the result of the application of some or all of the taxpayer's tax payment to an incorrect local government entity, the auditor must notify the correct local government entity of the taxpayer's application error.

Sec. 8-67. Appeals Process.

The Village shall refer to this Article and shall include a written statement of rights whenever the Village issues a protestable notice of tax due, a bill, a claim denial, or a notice of claim reduction regarding any tax. The statement must explain the reason for the assessment, the amount of the tax liability proposed, the procedure for appealing the assessment, and the obligations of the Village during the audit, appeal, refund, and collection process. In no event may a taxpayer be provided a time period less than forty-five (45) days after the date the notice was served in which to protest a notice of tax determination or notice of tax liability. Any notice of tax assessment due must be sent by United States registered or certified mail. The Village's Finance Director shall adopt procedures for opening up any closed protest period or extending the protest period upon the showing of reasonable cause by the taxpayer and full payment of the contested tax liability along with interest accrued as of the due date of the tax.

Sec. 8-68. Appeal Hearing Procedures.

- (A) If a timely written notice and petition for hearing is filed, the Finance Director shall fix the time and place for hearing and shall give written notice to the taxpayer.
- (B) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under Section 8-67, the Finance Director shall conduct a hearing regarding any appeal.
- (C) 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.
- (D) At the hearing, the Finance Director 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.
- (E) At the conclusion of the hearing, the Finance Director 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.

Sec. 8-69. Installment Contracts.

If the Finance Director allows installment payment agreements for delinquent tax amounts, the Finance Director may not cancel any installment contract unless the taxpayer fails to pay any amount due on time and fails to cure the delinquency in the allowable time supplied by Finance Director or fails to demonstrate good faith in restructuring any installment plan agreement or contract with the Finance Director.

Sec. 8-70. Voluntary Disclosure.

For any tax for which a taxpayer has not received a written notice of an audit, investigation, or assessment from the Finance Director, a taxpayer is entitled to file an application with the Finance Director 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. Except for the amount of tax and interest due under this Section, 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, provided, however, that if the taxpayer incorrectly determined and underpaid the amount of tax due as provided in this Section, 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 required under this Section must be made within ninety (90) days after the filing of the voluntary disclosure application, except that 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.

Sec. 8-71. Criminal Penalties.

Criminal penalties may not be imposed on taxpayers for noncompliance with the provisions of a locally imposed and administered tax unless the noncompliance is a result of willful or fraudulent disregard of the Village's tax laws.

Sec. 8-72. Review of Liens.

The Finance Director shall establish an internal review process concerning liens against taxpayers. If the lien is determined to be improper, the Finance Director must remove the lien at the Village's own expense, correct the taxpayer's credit record, and correct any public disclosure of the improperly imposed lien.

Sec. 8-73. Publication of Tax Ordinances.

The Village shall publish and make copies of its taxing ordinances readily available to the public at the Village Clerk's office upon request. Posting of the tax ordinances on the Internet satisfies the publication requirement of this Section.

Sec. 8-74. Application.

This Article 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 Article, this Article shall be controlling.

Article XII. Simplified Municipal Telecommunications Tax.
(Established by Ord. 03-119)

Sec. 8-75. Definitions.

As used in this Article, the following terms shall have the following meanings:

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

Department means the Illinois Department of Revenue.

Gross charge means the amount paid for the act or privilege of originating or receiving telecommunications in the 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 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 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:

- (A) Any amounts added to a purchaser's bill because of a charge made pursuant to: (i) the tax imposed by this Article, (ii) the tax imposed by the Telecommunications Excise Tax Act, (iii) the tax imposed by Section 4251 of the Internal Revenue Code, (iv) 911 surcharges, or (v) 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;
- (B) Charges for a sent collect telecommunication received outside of the Village;
- (C) Charges for leased time on equipment or charges for the storage of data or information 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;

- (D) Charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges;
- (E) Charges to business enterprises certified 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;
- (F) Charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries when the tax imposed under this 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;
- (G) Bad debts, which 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;
- (H) Charges paid by inserting coins in coin-operated telecommunication devices;
- (I) Amounts paid by telecommunications retailers under the Telecommunications Infrastructure Maintenance Fee Act;
- (J) Charges for nontaxable services or telecommunications if (i) those charges are aggregated with other charges for telecommunications that are taxable, (ii) those charges are not separately stated on the customer bill or invoice, and (iii) 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. (Ord. 06-25)

Interstate telecommunications means all telecommunications that either originate or terminate outside this State.

Intrastate telecommunications means all telecommunications that originate and terminate within this State.

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.

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

Retailer means 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.

Retailer maintaining a place of business in this State means any retailer having or maintaining within this State, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether 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.

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.

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.

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 the Village and who incurs a tax liability as authorized by the Article.

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 nontaxable 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' Occupations Tax Act.

Sec. 8-76. Simplified Municipal Telecommunications Tax Imposed.

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

- (A) The act or privilege of originating in the Village or receiving in the Village 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 Village or receiving in the Village 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 multistate or 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 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 or local tax in this 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 Village. (Ord. 05-160; 06-25)

Sec. 8-77. 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.

Sec. 8-78. Returns to Department.

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 (35 ILCS 636/5-1 *et seq.*) and any accompanying rules and regulations created by the Department to implement this Act.

Sec. 8-79. 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 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.

Article XIII. Cable/Video Service Provider Fee and Peg Access Support Fee

(Established by Ord. 07-115)

Sec. 8-83. Definitions.

For purposes of this Article, unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them below:

Cable operator is that term as defined in 47 U.S.C. § 522(5).

Cable service is that term as defined in 47 U.S.C. § 522(6).

Commission means the Illinois Commerce Commission.

Gross revenues means all consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the holder or cable operator for the operation of a cable or video system to provide cable service or video service within the holder's or cable operator's cable service or video service area within the Village.

A. Gross revenues shall include the following:

1. Recurring charges for cable or video service.
2. Event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges.
3. Rental of set top boxes and other cable service or video service equipment.
4. Service charges related to the provision of cable service or video service, including but not limited to activation, installation, and repair charges.
5. Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.
6. Late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments.
7. A pro rata portion of all revenue derived by the holder or cable operator or its affiliates pursuant to compensation arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of the network to provide cable service or video service within the Village. The allocation shall be based on the number of subscribers in the Village divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.
8. Compensation received by the holder or cable operator that is derived from the operation of the network to provide cable service or video service with respect to commissions that are received as compensation for promotion or exhibition of any products or services on the network, such

as a "home shopping" or similar channel, subject to subsection 9.

9. In the case of a cable service or video service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the revenue attributable to the other services, capabilities, or applications shall be included in the gross revenue unless the holder or cable operator can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.
10. The service provider fee permitted by 220 ILCS 5/21-801(b).

B. Gross revenues do not include any of the following:

1. Revenues not actually received, even if billed, such as bad debt, subject to 220 ILCS 5/21-801(c)(1)(vi).
2. Refunds, discounts, or other price adjustments that reduce the amount of gross revenues received by the holder of the State-issued authorization to the extent the refund, rebate, credit, or discount is attributable to cable service or video service.
3. Regardless of whether the services are bundled, packaged, or functionally integrated with cable service or video service, any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunication services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing or any other revenues attributed by the holder or cable operator to noncable service or nonvideo service in accordance with the books and records kept in the regular course of business and any applicable laws, rules, regulations, standards, or orders.
4. The sale of cable services or video services for resale in which the purchaser is required to collect the service provider fee from the purchaser's subscribers to the extent the purchaser certifies in writing that it will resell the service within the Village and pay the fee permitted by 220 ILCS 5/21-801(b) with respect to the service.
5. Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, State, federal, or any other governmental entity and collected by the holder of the State-issued authorization and required to be remitted to the taxing entity, including sales and use taxes.
6. Security deposits collected from subscribers.
7. Amounts paid by subscribers to "home shopping" or similar vendors for

merchandise sold through any home shopping channel offered as part of the cable service or video service.

- C. Revenue of an affiliate of a holder or cable operator shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate has the effect of evading the payment of the fee permitted by 220 ILCS 5/21-801(b) which would otherwise be paid by the cable service or video service.

Holder means a person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

PEG means public, education and governmental.

PEG access support fee is the amount paid under this Article and 220 ILCS 5/21-801(d) by the holder or cable operator to the Village for the service areas within its territorial jurisdiction.

Service is the provision of "cable service" or "video service" to subscribers and the interaction of subscribers with the person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

Service provider fee is the amount paid under this Article and 220 ILCS 5/21-801 by the holder or cable operator to a municipality for the service areas within its territorial jurisdiction.

Video service means video programming and subscriber interaction, if any, that is required for the selection or use of such video programming services, and which is provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d) or any video programming provided solely as part of, and via, service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

Sec. 8-84. Cable/Video Service Provider Fee Imposed.

- (A) Fee Imposed. A fee is hereby imposed on any holder or cable operator providing cable service or video service in the Village.
- (B) Amount of Fee. The amount of the fee imposed hereby shall be five percent (5%) of the holder's or cable operator's gross revenues.
- (C) Notice to the Village. The holder shall notify the Village at least ten (10) days prior to the date on which the holder begins to offer cable service or video service in the Village.
- (D) Holder's Liability. The holder or cable operator shall be liable for and pay the service provider fee to the Village. The liability for the fee shall commence on the first day of the calendar month following thirty (30) days after receipt of the ordinance adopting this Article by the holder or cable operator. The ordinance adopting this Article shall be sent by the Village Clerk via regular or certified mail, postage prepaid, to the address listed on

the holder's application notice sent pursuant to 220 ILCS 5 21-401(b)(6) to the Village and to any cable operator.

- (E) Payment Date. The payment of the service provider fee shall be due on a quarterly basis, forty-five (45) days after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.
- (F) Exemption. The fee hereby imposed does not apply to existing cable service or video service providers that have an existing franchise agreement in effect with the Village in which a fee is paid.
- (G) Credit for Other Payments. An incumbent cable operator that elects to terminate an existing agreement pursuant to 220 ILCS 5/21-301(c) with credit for prepaid franchise fees under that agreement may deduct the amount of such credit from the fees that operator owes under Section 8-84(B).

Sec. 8-85. PEG Access Support Fee Imposed.

- (A) PEG Fee Imposed. A PEG access support fee is hereby imposed on any holder or cable operator providing cable service or video service in the Village in addition to the fee imposed pursuant to Section 8-84.
- (B) Amount of Fee. The amount of the fee imposed hereby shall be one percent (1%) of the holder's or cable operator's gross revenues or, if greater, the percentage of gross revenues that incumbent cable operators pay to the Village or its designee for PEG access support in the Village as of January 1, 2007, as provided in 220 ILCS 5/21-801(d)(1).
- (C) Payment. The holder or cable operator shall pay the PEG access support fee to the Village or to the entity designated by the Village to manage PEG access. The liability for the PEG access support fee shall commence on the date set forth in Section 8-84(D).
- (D) Payment Due. The payment of the PEG access support fee shall be due on a quarterly basis, forty-five (45) days after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.
- (E) Credit for Other Payments. An incumbent cable operator that elects to terminate an existing agreement pursuant to 220 ILCS 5/21-301(c) shall pay, at the time they would have been due, all monetary payments for PEG access that would have been due during the remaining term of the agreement had it not been terminated pursuant to that section. All payments made by an incumbent cable operator pursuant to the previous sentence may be credited against the fees that operator owes under Subsection (B) hereinabove.

Sec. 8-86. Applicable Principles.

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

Sec. 8-87. No Impact on other Taxes Due from Holder or Cable Operator.

Nothing contained in this Article shall be construed to exempt a holder or cable operator from any tax that is or may later be imposed by the Village, including any tax that is or may later be required to be paid with respect to cable service or video service. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the Village's simplified municipal telecommunications tax or any other tax as it applies to any telephone service provided by the holder. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the local unit of government's 911 or E911 fees, taxes or charges.

Sec. 8-88. Audits of Cable/Video Service Provider.

- (A) Audit Requirement. The Village will notify the holder of the requirements it imposes on other cable service or video service providers to submit to an audit of its books and records. The holder shall comply with the same requirements the Village imposes on other cable service or video service providers in its jurisdiction to audit the holder's books and records and to recompute any amounts determined to be payable under the requirements of the Village. If all local franchises between the Village and cable operator terminate, the audit requirements shall be those adopted by the Village in Chapter 8, Article XI of the Village Code pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.* No acceptance of amounts remitted should be construed as an accord that the amounts are correct.
- (B) Additional Payments. Any additional amount due after an audit shall be paid within thirty (30) days after the municipality's submission of an invoice for the sum.

Sec. 8-89. Late Fees/Payments.

All fees due and payments which are past due shall be governed by Chapter 8, Article XI of the Village Code adopted by this municipality pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.*

Article XIV. Cable and Video Customer Protection Law
(Established by Ord. 07-116)

Sec. 8-90. Customer Service and Privacy Protection Law.

(a) *Adoption.* The regulations of 220 ILCS 5/70-501 are hereby adopted by reference and made applicable to the cable or video providers offering services within the Village's boundaries.

(b) *Amendments.* Any amendment to the Cable and Video Customer Protection Law that becomes effective after the effective date of this Article shall be incorporated into this Article by reference and shall be applicable to cable or video providers offering services within the municipality's boundaries. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Article by reference without formal action by the corporate authorities of the Village.

Sec. 8-91. Enforcement.

The Village does hereby pursuant to law declare its intent to enforce all the customer service and privacy protection standards of the Cable and Video Protection Law with respect to complaints received from residents within the Village.

Sec. 8-92. Penalties.

The Village, pursuant to 220 ILCS 5/70-501(r)(1), does hereby provide for a schedule of penalties for any material breach of the Cable and Video Protection Law by cable or video providers in addition to the penalties provided in the law. The monetary penalties shall apply on a competitively neutral basis and shall not exceed seven hundred fifty dollars (\$750.00) for each day of the material breach and shall not exceed twenty-five thousand dollars (\$25,000.00) for each occurrence of a material breach per customer.

- A. *Material breach* means any substantial failure of a cable or video provider to comply with service quality and other standards specified in any provision of the law.
- B. The Village shall give the cable or video provider written notice of any alleged material breaches of the law and allow such provider at least thirty (30) days from the receipt of the notice to remedy the specified material breach.
- C. A material breach, for the purposes of assuming penalties, shall be deemed to occur for each day that a material breach has not been remedied by the cable or video service provider after the notice in Subsection B.

Sec. 8-93. Customer credits.

The Village hereby adopts the schedule of customer credits for violations. Those credits shall be as provided for in the provisions of 220 ILCS 5/70-501(s) and applied on the statement issued to the customer for the next billing cycle following the violation or following the discovery of the violation. The cable or video provider is responsible for providing the credits, and the customer is under no obligation to request the credit.

Article XV. Dishonored Checks
(Amended in its Entirety by Ord. 11-29)

Sec. 8-94. Fee for Dishonored Checks.

In addition to any other fee or charge due to the Village pursuant to the Village Code, any person who issues a check to the Village as payment, which check is dishonored by the drawee bank, shall be liable in the amount of fifteen dollars (\$15.00) to the Village for its administrative costs associated with the dishonored check.

Article XVI. Cannabis Retailers Occupation Tax
(Amended in its Entirety by Ord. 19-74)

Section 8-95. Tax Imposed.

Pursuant to the Cannabis Retailers Occupation Tax Law (65 ILCS 11-8-22), a tax is hereby imposed upon all persons engaged in the business of selling cannabis as defined by the Cannabis Regulation and Tax Act, other than cannabis purchased under the Compassionate Use of Medical Cannabis Pilot Program Act, at retail in the Village of Addison on the gross receipts from these sales made in the course of that business. The tax shall be at the rate of three percent (3%) of the gross receipts from these sales.

Section 8-96. Collection and Administration.

The tax imposed under this Article and all civil penalties that may be assessed as an incident of the tax shall be collected and enforced by the Illinois Department of Revenue. The Illinois Department of Revenue shall have full power to administer and enforce this Article; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner provided by law; to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty under this Article; and perform such other duties as may be required by law.