

CHAPTER 36

TAXATION

ARTICLE I – FOREIGN FIRE INSURANCE TAX

36-1-1 **CONFORMANCE.** All corporations, companies and associations not incorporated under the laws of this State which are engaged in this Municipality in effecting or soliciting fire insurance, shall pay to the City Treasurer on the **fifteenth (15th) day of July** of each and every year a sum equal to **two percent (2%)** of the gross receipts of premiums received by such corporations, associations or companies, or their agency, agent(s), for business effected or transacted for fire insurance within this City for the year preceding **July 1st**. The sum named above shall be as a tax or license fee upon all such corporations, companies or associations transacting the business within this City.

36-1-2 **REQUIRED REPORTS.** Every person acting as an agent, or otherwise, for or on behalf of any such corporation, company or association, shall, on or before the **fifteenth (15th) day of July** of each and every year render to the City Clerk a full, true, and just account, verified by oath, of all the premiums which, during the year ending on the **first (1st) day of July** of each and every year shall have been received by him, or any other person for him in behalf of such corporation, company or association, and shall fully and specifically set out in such report the amount or amounts received as premiums for fire insurance.

36-1-3 **FEES.** The said agent(s) shall also at the time of making the above mentioned report, pay to the City Treasurer the sum of **two percent (2%)** upon the gross receipts of such corporation, company or association obtained as premiums for effecting fire insurance in this City as specified in this Chapter.

36-1-4 **UNLAWFUL OPERATION.** If such an account be not rendered on or before the day herein specified for that purpose, or if the above mentioned rates for the tax or license fees shall remain unpaid after that day, it shall be unlawful for any such corporation, company or association to transact any business of fire insurance in this City until the requirements hereof are fully complied with; but this provision shall not relieve any company, corporation or association from the payment of any such risk that may be taken in violation hereof.

ARTICLE II - UTILITY TAXES

36-2-1 **UTILITY TAX IMPOSED.** A tax is imposed on all engaged in the following occupations or privileges:

(A) Persons engaged in the business of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of the City, and not for resale, at the rate of **five percent (5%)** of the gross receipts therefrom. **(Ord. No. 12-86; 04-07-86)**

36-2-2 **EXCEPTIONS.** No tax is imposed by this Article with respect to any transaction in interstate commerce or otherwise to the extent to which such business may not, under the Constitution and statutes of the United States, be made subject to taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing or selling gas, or engaged in the business of transmitting messages be subject to taxation under the provisions of this Article for such transactions as are or may become subject to taxation under the provisions of the "Municipal Retailers' Occupation Tax Act" authorized by Section 8-11-1 of the Illinois Municipal Code.

36-2-3 **EXTENT OF TAX.** Such tax shall be in addition to the payment of money, or value of products or services furnished to this Municipality by the taxpayer as compensation for the use of its streets, alleys or other public places, or installation and maintenance therein, thereon or thereunder of poles, wires, pipes, or other equipment used in the operation of the taxpayers' business.

36-2-4 **DEFINITIONS.** For the purpose of this Article the following definitions shall apply:

(A) "Gross receipts" means the consideration received for the transmission of messages, or for distributing, supplying, furnishing or selling gas or water for use or consumption and not for resale, as the case may be, except for that consideration received from the City; and for all service

rendered in connection therewith that in money, whether received in money or otherwise, including cash, credit, services and property of every kind and material and for all services rendered therewith, and shall be determined without any deduction on account of the cost of transmitting the messages without any deduction on account of the cost of the service, product, or commodity supplied, the cost of materials used, labor or services cost, or any other expenses whatsoever. **(Ord. No. 6; 1985-1986; 10-07-85)**

(B) "Person" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, municipal corporation or political subdivision of this State, or a receiver, trustee, conservator or other representative appointed by order of any court.

(C) "Transmitting messages" in addition to the usual and popular meaning of person communication, shall include the furnishing, for a consideration, of services or facilities (whether owned or leased), or both, to persons in connection with the transmission of messages where such persons do not, in turn, receive any consideration in connection therewith, but shall not include such furnishing of services or facilities for the transmission of messages to the extent that any such services or facilities for the transmission of messages are furnished for a consideration, by such persons to other persons, for the transmission of messages.

36-2-5 **EFFECTIVE DATE.** This Article shall take effect after publication and the tax provided for herein shall be based on the gross receipts, as herein defined, actually paid to the taxpayer for services billed.

36-2-6 **QUARTERLY RETURNS.** On or before the last day of each month, each taxpayer shall make a return to the City Treasurer for preceding months stating:

- (A) His name;
- (B) His principal place of business;
- (C) His gross receipts during those months upon the basis of which the tax is imposed;
- (D) Amount of tax;
- (E) Such other reasonable and related information as the corporate authorities may require.

On or before the last day of every month thereafter, each taxpayer shall make a like return to the City Treasurer for the corresponding months.

The taxpayer making the return herein provided for shall, at the time of making such return, pay the City Treasurer, the amount of tax herein imposed; provided that the connection with any return the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings and the taxable gross receipts.

36-2-7 **INCORRECT TAX PAID.** If it shall appear that an amount of tax has been paid which was not due under the provisions of this Article, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Article from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than **three (3) years** prior to the filing of a claim therefor shall be so credited.

36-2-8 **TIME LIMIT FOR RECOVERY.** No action to recover any amount of tax due under the provisions of this Article shall be commenced more than **three (3) years** after the due date of such amount.

36-2-9 **PENALTY.** Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than **One Hundred Dollars (\$100.00)** nor more than **Two Hundred Dollars (\$200.00)** and in addition shall be liable in a civil action for the amount of tax due.

(Ord. No. 9; 1967-1968; 10-07-67)

ARTICLE III - GENERAL TAXES

36-3-1 **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%**. (See **65 ILCS Sec. 5/8-3-1**)

36-3-2 **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:

<u>FUND/PURPOSE</u>	<u>MAXIMUM RATE</u>
City Park	\$.20 per \$100.00
Emergency Service and Disaster Agency	\$.05 per \$100.00
Fire Protection	\$.075 per \$100.00
IMRF	\$ NO LIMIT
Library	\$.15 per \$100.00
Police Protection	\$.075 per \$100.00
Social Security	\$ NO LIMIT

ARTICLE IV

TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE

36-4-1 **DEFINITIONS.** As used in this Article, the following terms shall have the following meanings:

(A) **“Gross Charges”** means the amount paid to a telecommunications retailer for the act or privilege of originating or receiving telecommunications within the City, and for all services rendered in connection therewith, 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 point within the City, charges for the channel mileage between each channel point within the City, and charges for that portion of the interstate inter-office channel provided within the City. However, “gross charges” shall not include:

- (1) any amounts added to a purchaser’s bill because of a charge made under:
 - (a) the fee imposed by this Section,
 - (b) additional charges added to a purchaser’s bill under Section 9-221 or 9-222 of the Public Utilities Act,
 - (c) amounts collected under Section 8-11-17 of the Illinois Municipal Code,
 - (d) the tax imposed by the Telecommunications Excise Tax Act,
 - (e) 911 surcharges, or
 - (f) the tax imposed by Section 4251 of the Internal Revenue Code;
- (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 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 City;
- (6) charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries, 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 other than a regulatory required profit for the corporation rendering such services;
- (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; or
- (9) charges for telecommunications and all services and equipment provided to the City.

(B) **“Public Right-of-Way”** means any municipal street, alley, water or public right-of-way dedicated or commonly used for utility purposes, including utility easements wherein the City has acquired the right and authority to locate or permit the location of utilities consistent with telecommunications facilities. “Public Right-of-Way” shall not include any real or personal City property that is not specifically described in the previous sentence and shall not include City buildings and other structures or improvements, regardless of whether they are situated in the public right-of-way.

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

(D) **“Sale of telecommunications at retail”** means the transmitting, supplying, or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

(E) **“Service address”** means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received. If this is not a defined location, as in the case of wireless telecommunications, paging systems, maritime systems, air-to-ground systems, and the like, “service address” shall mean the location of the customer’s primary use of the telecommunications equipment as defined by the location in Illinois where bills are sent.

(F) **“Telecommunications”** includes, but is not limited to, messages or information transmitted through use of local, toll, and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange services, private line services, specialized mobile radio services, 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. Unless the context clearly requires otherwise, “telecommunications” shall also include wireless telecommunications as hereinafter defined. “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 purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by him or her to the ultimate retail consumer who originates or terminates the end-to-end communications. Retailer access charges, right of access charges, charges for use of intercompany facilities, and all telecommunications resold in the subsequent provisions and used as a component of, or integrated into, end-to-end telecommunications service shall not be included in gross charges as sales for resale. “Telecommunications” shall not include the provision of cable service through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Section 521 and following) as now or hereafter amended or cable or other programming services subject to an open video system fee payable to the City through an open video system as defined in the Rules of the Federal Communications Commission (47 C.D.F. 76.1550 and following) as now or hereafter amended.

(G) **“Telecommunications provider”** means (1) any telecommunications retailer; and (2) any person that is not a telecommunications retailer that installs, owns, operates or controls equipment in the public right-of-way that is used or designed to be used to transmit telecommunications in any form.

(H) **“Telecommunications retailer” or “retailer” or “carrier”** means and includes every person engaged in the business of making sales of telecommunications at retail as defined in this Section. The City may, in its discretion, upon application, authorize the collection of the fee hereby imposed by any retailer not maintaining a place of business within this State, who, to the satisfaction of the City, furnishes adequate security to ensure collection

and payment of the fee. When so authorized, it shall be the duty of such retailer to pay the fee upon all of the gross charges for telecommunications in the same manner and subject to the same requirements as a retailer maintaining a place of business in the City.

(I) **“Wireless telecommunications”** includes cellular mobile services, personal wireless services as defined in Section 704(C) of the Telecommunications Act of 1996 (Public Law No. 104-104), 42 U.S.C. §331(c)(7), as now or hereafter amended, including all commercial mobile radio services, and paging services.

36-4-2 REGISTRATION OF TELECOMMUNICATIONS PROVIDERS.

(A) Every telecommunications provider as defined by this Article shall register with the City within **thirty (30) days** after the effective date of this Article or becoming a telecommunications provider, whichever is later, on a form to be provided by the City, provided, however, that any telecommunications retailer that has filed a return pursuant to **Section 36-4-4(C)** of this Article shall be deemed to have registered in accordance with this Section.

(B) Every telecommunications provider who has registered with the City pursuant to **Section 36-4-2(A)** has an affirmative duty to submit an amended registration form or current return as required by **Section 36-4-4(C)**, as the case may be, to the City within **thirty (30) days** from the date of the occurrence of any changes in the information provided by the telecommunications provider in the registration form or most recent return on file with the City.

36-4-3 MUNICIPAL TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE.

(A) A City telecommunications infrastructure maintenance fee is hereby imposed upon all telecommunications retailers in the amount of **one percent (1%)** of all gross charges charged by the telecommunications retailers to service addresses within the City for telecommunications originating or received in the City.

(B) Upon the effective date of the infrastructure maintenance fee authorized in this Article, the City infrastructure maintenance fee authorized hereunder shall be the only fee or compensation for the use of all public rights-of-way within the City by telecommunications retailers. Imposition of the infrastructure maintenance fee provided under this Article does not, however, serve as a limitation on the levying of any taxes or imposition of any fees otherwise authorized by law.

(C) The City telecommunications infrastructure maintenance fee authorized by this Section shall be collected, enforced, and administered as set forth in **Section 36-4-4** of this Article.

36-4-4 COLLECTION, ENFORCEMENT, AND ADMINISTRATION OF TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEES.

(A) A telecommunications retailer shall charge to and collect from each customer an additional charge in an amount equal to the City infrastructure maintenance fee attributable to that customer's service address.

(B) Unless otherwise approved by the City the infrastructure maintenance fee shall be remitted by the telecommunications retailer to the City not later than the last day of the month subsequent to the month in which a bill is issued to the customer; provided, however, that the telecommunications retailer may retain an amount not to exceed **two percent (2%)** of the City infrastructure maintenance fee collected by it to reimburse itself for expenses incurred in accounting for and remitting the fee.

(C) Remittance of the municipal infrastructure fee to the City shall be accompanied by a return, in a form to be prescribed by the City, which shall contain such information as the City may reasonably require.

(D) Any infrastructure maintenance fee required to be collected pursuant to this Article and any such infrastructure maintenance fee collected by such telecommunications retailer shall constitute a debt owed by the telecommunications retailer to the City. The charge imposed under **Section 36-4-4(A)** by the telecommunications retailer pursuant to this Article shall constitute a debt of the purchaser to the telecommunications retailer who provides such services until paid and, if unpaid, is recoverable at law in the same manner as the original charge for such services.

(E) If it shall appear that an amount of infrastructure maintenance fee has been paid that was not due under the provisions of this Article, whether as a result of a mistake of fact or an error of law, then such amount shall be credited against any infrastructure maintenance fee due, or to become due, under this Article, from the telecommunications retailer who made the erroneous payment; provided, however, the City may request, and telecommunications retailer shall provide, written substantiation for such credit. However, no claim for such credit may be made more than **three (3) years** after the date of the erroneous payment unless, (1) the credit is used only to offset a claim of underpayment made by the City within the applicable statutory period of limitations, and (2) the credit derives from an overpayment made by the same telecommunications retailer during the applicable statutory period of limitations.

(F) Amounts paid under this Article by telecommunications retailers shall not be included in the tax base under any of the following acts as described immediately below:

- (1) **"gross charges"** for purposes of the Telecommunications Excise Tax Act;
- (2) **"gross receipts"** for purposes of the municipal utility tax as prescribed in Section 8-11-2 of the Illinois Municipal Code;
- (3) **"gross charges"** for purposes of the municipal telecommunications tax as prescribed in Section 8-11-17 of the Illinois Municipal Code;
- (4) **"gross revenue"** for purposes of the tax on annual gross revenue of public utilities in Section 2-202 of the Public Utilities Act.

(G) The City shall have the right, in its discretion, to audit the books and records of all telecommunications retailers subject to this Article to determine whether the telecommunications retailer has properly accounted to the City for the City infrastructure maintenance fee. Any underpayment of the amount of the City infrastructure maintenance fee due to the City by the telecommunications retailer shall be paid to the City plus **five percent (5%)** of the total amount of the underpayment determined in an audit, plus any costs incurred by the City in conducting the audit, in an amount not to exceed **five percent (5%)** of the total amount of the underpayment determined in an audit. Said sum shall be paid to the City within **twenty-one (21) days** after the date of issuance of an invoice for same.

(H) The City or his or her designee, may promulgate such further or additional regulations concerning the administration and enforcement of this Article consistent with its provisions, as may be required from time to time and shall notify all telecommunications retailers that are registered pursuant to **Section 36-4-2** of this Article of such regulations.

36-4-5 **COMPLIANCE WITH OTHER LAWS.** Nothing in this Article shall excuse any person or entity from obligations imposed under any law, including but not limited to:

- (A) generally applicable taxes; and
- (B) standards for construction on, over, under, or within, use of or repair of the public rights-of-way, including standards relating to free standing towers and other structures upon the public rights-of-way, as provided; and
- (C) Any liability imposed for the failure to comply with such generally applicable taxes or standards governing construction on, over, under, or within, use of or repair of the public rights-of-way; and
- (D) Compliance with any ordinance or provision of this Code concerning uses or structures not located on, over, or within the right-of-way.

36-4-6 **EXISTING FRANCHISES AND LICENSES.** Any franchise, license, or similar agreements between telecommunications retailers and the City entered into before the effective date of this Article regarding the use of public rights-of-way shall remain valid according to and for their stated terms except for any fees, charges or other compensation to the extent waived.

36-4-7 **PENALTIES.** Any telecommunications provider who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Article shall be subject to fine in accordance with the general penalty provisions of the City Municipal Code.

36-4-8 **ENFORCEMENT.** Nothing in this Article shall be construed as limiting any additional or further remedies that the City may have for enforcement of this Article.

(Ord. No. 97-98-11; 03-09-98)

ARTICLE V

ELECTRIC UTILITY TAX

36-5-1 **TAX IMPOSED.** A tax is imposed on all persons engaged in the following occupations or privileges:

(A) The privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the City at the following rates, calculated on a monthly basis for each purchaser:

(1)	First 2,000 KWH	.438 cents per KWH
(2)	Next 48,000 KWH	.287 cents per KWH
(3)	Next 50,000 KWH	.259 cents per KWH
(4)	Next 400,000 KWH	.251 cents per KWH
(5)	Next 500,000 KWH	.244 cents per KWH
(6)	Next 2,000,000 KWH	.230 cents per KWH
(7)	Next 2,000,000 KWH	.226 cents per KWH
(8)	Next 5,000,000 KWH	.223 cents per KWH
(9)	Next 10,000,000 KWH	.219 cents per KWH
(10)	Over 20,000,000 KWH	.216 cents per KWH

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

36-5-2 **TYPE OF CUSTOMER -- RATE EFFECTIVE.** Pursuant to **65 ILCS Sec. 5/8-11-2**, the rates set forth in **Section 36-5-1** above shall be effective:

(A) On **January 31, 1999** for residential customers; and

(B) On the earlier of:

- (1) the last bill issued prior to **December 31, 2000**, or
- (2) the date of the first bill issued pursuant to **220 ILCS Sec. 5/16-104**, for non-residential customers.

36-5-3 **EFFECTIVE DATE FOR ARTICLE.** The provisions of **Section 36-5-1** shall not be effective until **January 31, 1999**.

36-5-4 **EXCEPTIONS.** None of the taxes authorized by this Article may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privileges may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, or selling or

transmitting gas, water, or electricity, or engaged in the business of transmitting messages, or using or consuming electricity acquired in a purchase at retail, be subject to taxation under the provisions of this Article for those transactions that are or may become subject to taxation under the provisions of the "**Municipal Retailers' Occupation Tax Act**" as authorized by **65 ILCS Sec. 5/8-11-1**; nor shall any tax authorized by this Article be imposed upon any person engaged in a business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in business of the same class in the Municipality, whether privately or municipally owned or operated, or exercising the same privilege within the Municipality.

36-5-5 **ADDITIONAL TAXES.** Such tax shall be in addition to other taxes levied upon the taxpayer or its business.

36-5-6 **COLLECTION.** The tax authorized by this Article shall be collected from the purchaser by the person maintaining a place of business in this State who delivers the electricity to the purchaser. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and if unpaid, is recoverable in the same manner as the original charge for delivering the electricity. Any tax required to be collected pursuant to this Article and any such tax collected by a person delivering electricity shall constitute a debt owed to the Municipality by such person delivering the electricity. Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering electricity shall also be authorized to add to such gross charge an amount equal to **three percent (3%)** of the tax to between such billings, and the taxable gross receipts.

36-5-7 **CREDIT FOR OVER-PAYMENT.** If it shall appear that an amount of tax has been paid which was not due under the provisions of this Article, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Article from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than **three (3) years** prior to the filing of a claim therefor shall be so credited.

No action to recover any amount of tax due under the provisions of this Article shall be commenced more than **three (3) years** after the due date of such amount.

36-5-8 **PENALTY.** Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than **One Hundred Dollars (\$100.00)** nor more than **Two Hundred Dollars (\$200.00)** in addition, shall be liable in a civil action for the amount of tax due. (See 65 ILCS Sec. 5/8-11-2)

(Ord. No. 98-99-15; 11-09-98)