

Chapter 21

TAXATION

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Section 21.100ART. Article I. Service Occupation Tax

(Ord. 4486, Amended, 08/04/2003; 4101, Renumbered, 02/08/1999)

Section 21.100SEC. Imposed. Rate.

A tax is hereby imposed on all persons engaged in the Village in the business of making sales of service at the rate of one percent of the cost price of all tangible personal property transferred by said servicemen, either in the form of tangible personal property or in the form of real estate as an incident to a sale of service, in accordance with the provisions of Section 8-11-15 of the Illinois Municipal Code. (Ord. No. 909, § 1; Ord. No. 1310, § 1; Ord. No. 1456, § 1.)

(Ord. 4533, Amended, 09/16/2003; Ord. 4486, Amended, 08/04/2003; 4101, Renumbered, 02/08/1999)

Section 21.101. Home Rule Municipal Service Occupation Tax - Imposed; rate.

(a) A tax is hereby imposed upon all persons engaged in the Village of Downers Grove in the business of making sales of service, at the rate of one percent (1%) of the selling price of all tangible personal property transferred by such serviceman, either in the form of tangible personal property or in the form of real estate, as an incident to a sale of service. Such "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 which has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, and syringes and needles used by diabetics. The imposition of this home rule tax is pursuant to the provisions of Section 8-11-5 of the 'Illinois Municipal Code' (65 ILCS 5/8-11-5, as amended).

(b) 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.

(Ord. 5103, Amended, 12/15/2009; Ord. 4936, Amended, 12/18/2007; Ord. 4486, Amended, 08/04/2003; 4101, Renumbered, 02/08/1999)

Section 21.102. through 21.199. Reserved.

(Ord. 4486, Amended, 08/04/2003)

Section 21.200ART. Article II. Retailers' Occupation Tax

(Ord. 4486, Amended, 08/04/2003; 4101, Renumbered, 02/08/1999)

Section 21.200SEC. Reserved.

(Ord. No. 1234, § 1; Ord. No. 1457, § 1.)

(Ord. 4533, Amended, 09/16/2003; Ord. 4486, Amended, 08/04/2003; 4101, Renumbered, 02/08/1999)

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Section 21.201. Home Rule Municipal Retailers Occupation Tax.

(a) A 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 the State of Illinois at retail in the Village of Downers Grove, at the rate of one percent (1%) of the gross receipts from such sales made in the course of such business while this ordinance is in effect. Such "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 which has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, and syringes and needles used by diabetics.

The imposition of this home rule tax is pursuant to the provisions of Section 8-11-1 of the 'Illinois Municipal Code' (65 ILCS 5/8-11-1, as amended).

(b) 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.

(Ord. 5103, Amended, 12/15/2009; Ord. 4936, Amended, 12/18/2007; Ord. 4486, Amended, 08/04/2003; 4101, Renumbered, 02/08/1999)

Section 21.202. through 21.299. Reserved

(Ord. 4486, Amended, 08/04/2003)

Section 21.300ART. Article III. Municipal Use Tax

(4101, Renumbered, 02/08/1999)

Section 21.300SEC. Imposed; rate.

A tax is hereby imposed upon the privilege of using in the Village any item of tangible personal property which is purchased at retail from a retailer, and which is titled or registered at a location within the Village with an agency of the government of the State of Illinois at the rate of one percent of the selling price of such tangible personal property in accordance with the provisions of Section 8-11-6 of the Illinois Municipal Code. (Ord. No. 2467, § 1.)

(4101, Renumbered, 02/08/1999)

Section 21.301. Payment.

The tax provided for in Section 21-300 shall be collected from the persons whose Illinois address for titling or registration purposes is given as being in the Village, in accordance with the provisions of Section 8-11-6 of the Illinois Municipal Code. (Ord. No. 2597, § 1.)

(4101, Renumbered, 02/08/1999)

Section 21.302. through 21.399. Reserved.

(4101, Enacted, 02/08/1999)

Section 21.400ART. Article IV. Municipal Automobile Renting Occupation Tax

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(4101, Renumbered, 02/08/1999)

Section 21.400SEC. Imposed; rate.

A tax is hereby imposed upon all persons engaged in the business of renting automobiles in the Village at the rate of one percent of the gross receipts from such rentals made in the course of such business while this ordinance is in effect, in accordance with the provisions of Section 8-11-7 of the Illinois Municipal Code. (Ord. No. 2597, § 1.)

(4101, Renumbered, 02/08/1999)

Section 21.401. Report required; where filed.

Every person engaged in the business of renting automobiles 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 28, 1933, as amended. (Ord. No. 2597, § 1.)

(4101, Renumbered, 02/08/1999)

Section 21.402. Payment.

At the time the report required by Section 21-401 of this article 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 of automobiles during the preceding month. (Ord. No. 2597, § 1.)

(4101, Renumbered, 02/08/1999)

Section 21.403. through 21.499. Reserved.

Section 21.500ART. Article V. Municipal Automobile Renting Use Tax

(4101, Renumbered, 02/08/1999)

Section 21.500SEC. Imposed; rate.

A tax is hereby imposed upon the privilege of using in the 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 to a person with an address in the Village at the rate of one percent of the rental price of such automobile while this ordinance is in effect, in accordance with the provisions of Section 8-11-8 of the Illinois Municipal Code. (Ord. No. 2596, § 1.)

(Ord. No. 2596, § 1.)

(4101, Renumbered, 02/08/1999)

Section 21.501. Payment.

The tax provided for in the preceding section shall be collected from the persons whose Illinois address for titling or registration purposes is given as being in the Village, and shall be paid to the Illinois Department of Revenue. (Ord. No. 2596, § 1.)

(4101, Enacted, 02/08/1999)

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Section 21.502. through 21.599. Reserved.

Section 21.600ART. Article VI. Hotel Use Tax

Section 21.600SEC. Definitions.

For the purpose of this Article, the following words as used herein shall be construed to have the meanings herein ascribed:

Director. The Village Treasurer for the Village of Downers Grove, or any person certified by him as his/her designee, deputy or representative.

Hotel. Any building or buildings in which the public may, for rent, obtain living quarters, sleeping or housekeeping accommodations. The term includes, inns, motels, hotels, clubs, tourist homes or courts, lodging houses, rooming houses and apartment houses.

Hotel Room. Any room or rooms with living quarters, sleeping or housekeeping accommodations and offered for rental on a daily or weekly basis, or any fraction thereof, including but not limited to hourly or half day rentals.

Owner. Any person having an ownership interest in or conducting the operation of a hotel or receiving the consideration for the rental of hotel rooms.

Permanent Resident. Any person who has occupied or has the right to occupy any hotel room in a hotel for at least thirty (30) consecutive days.

(Ord. 5637, Amended, 07/18/2017; Ord. 4852, Amended, 02/20/2007, his to his/her(s); 4101, Renumbered, 02/08/1999; 3581, Amended, 08/02/1993; 3540, Rep&ReEn, 02/15/1993; 3526, Amended, 12/21/1992)

Section 21.601. Tax; Incidence; Payment; Collection.

1. Tax Imposed: A tax is hereby levied and imposed upon the use and privilege of renting, leasing or letting a Hotel Room within the Village. The tax shall be at the rate of four and one-half percent (4.5%) of the gross rental receipts.

2. Incidence of Tax: The ultimate incidence of and liability for payment of the tax is to be borne by the person who seeks the privilege of occupying the Hotel Room, such person hereinafter referred to as renter.

3. Payment of Tax: The tax herein levied shall be paid in addition to any and all other taxes and charges. It shall be the duty of the Owner of every Hotel to secure the tax from the renter of the Hotel Room and to pay the tax over to the Village under the procedures prescribed by the Director, or as otherwise provided in this Article.

4. Collection: Every person required to collect the tax levied by this Article shall secure the tax from the renter at the time he collects the rental payment for the Hotel Room. The amount due under the tax provided in this Article shall be stated separately upon the invoice, receipt or other statement or memorandum given to the renter at the time of payment.

(4392, Amended, 04/02/2002; 4101, Renumbered, 02/08/1999; 3737, Amended, 04/17/1995; 3540, Rep&ReEn, 02/15/1993)

Section 21.602. Books and Records; Inspections; Contents.

1. The Director may enter the premises of any Hotel and inspect books and records in order to effectuate the proper administration of this Article and to assure the enforcement of the collection of the tax imposed. Except where the Director determines that immediate inspection is necessary to preserve records

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or otherwise ensure compliance with this Article, the Director shall give the Hotel not less than forty-eight (48) hours prior notice of such inspection.

2. No person shall prevent, hinder or interfere with the Director in the discharge of his/her duties under this Article.

3. It shall be the duty of every Owner to keep accurate and complete books and records to which the Director shall at all times have full access, which records shall include a daily sheet showing:

a. The number of Hotel Rooms rented during the twenty-four (24) hour period, including multiple rental of the same Hotel Room where such shall occur; and,

b. The actual Hotel receipts collected for the date in question.

(Ord. 4852, Amended, 02/20/2007, his to his/her(s); 4101, Renumbered, 02/08/1999; 3627, Amended, 02/07/1994; 3540, Rep&ReEn, 02/15/1993)

Section 21.603. Reporting; Transmittal; Delinquency; Penalty.

1. Monthly Reporting: On or before the last day of each calendar month, the Owner or Owners of each Hotel within the Village shall file a monthly tax return showing tax receipts received with respect to each Hotel Room during the prior month. The return shall include:

a. Name

b. Location of Hotel

c. Gross receipts during the prior month upon the basis of which the tax is imposed

d. Amount of the tax

e. Such other reasonable and related information as the Director may from time to time require

2. Monthly Payment: The tax shall be due on the day the monthly return is due as provided herein. At the time of filing such returns, the Owner shall pay to the Director all taxes, interest and penalties, if any, due for the period to which the return applies; provided, however, the establishment making the monthly return may retain an amount of money equal to three percent (3%) of the tax due as compensation for services rendered in the collection and payment of such tax.

3. Penalty: If for any reason any tax is not paid when due, a penalty at the rate of one percent (1%) per thirty (30) day period, or any portion thereof, shall be added and collected.

(a) Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this article shall be punished by a fine of not less than two hundred dollars (\$200.00) nor more than seven hundred fifty dollars (\$750.00) for the first offense, and not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) for the second and each subsequent offense.

(b) Each day upon which a person shall continue any violation of this Article, or permit any such violation to exist after notification thereof, shall constitute a separate and distinct offense.

(c) Any person subjected to the penalties provided for in this Article, shall not be discharged or released from the payment of any tax due hereunder.

(Ord. 5637, Amended, 07/18/2017; 4101, Renumbered, 02/08/1999; 3540, Rep&ReEn, 02/15/1993)

Section 21.604. Proceeds.

All proceeds resulting from the imposition of the tax under this Article, including interest and penalties, shall be paid into the Treasury of the Village and shall be credited to and deposited into the Treasury of the Village and shall be credited to and deposited in the General Fund of the Village.

(4101, Renumbered, 02/08/1999; 3540, Rep&ReEn, 02/15/1993; 3498, Amended, 08/03/1992)

Section 21.605. Exemption.

The tax imposed by Section 21-601 shall not apply to permanent residents.

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Section 21.606. Acts of Agent or Employee.

Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Article, by any officer, director, manager or other agent or employee of an Owner, shall be deemed and held to be the act of such Owner, and said Owner shall be liable and punishable in the same manner as if said act or omission had been done or omitted by said Owner personally.

(4101, Renumbered, 02/08/1999; 3540, Rep&ReEn, 02/15/1993)

Section 21.607. Severability.

If any provision of this Article or the application thereof to any person or circumstance is held invalid, the remainder of this Article and the application thereof to other persons or circumstances shall not be affected thereby.

(4101, Renumbered, 02/08/1999; 3540, Rep&ReEn, 02/15/1993)

Section 21.608. through 21.699. Reserved.

(4159, Amended, 11/02/1999; 4101, Renumbered, 02/08/1999; 3741, Enacted, 04/24/1995)

Section 21.700ART. Article VII. Municipal Gas Use Tax

(Ord. 4497, Amended, 04/15/2003; 4101, Renumbered, 02/08/1999; 3741, Enacted, 04/24/1995)

Section 21.700SEC. Short Title.

The tax imposed by this Article shall be known as the "Municipal Gas Use Tax" and is imposed in addition to all other taxes imposed by the Village of Downers Grove, State of Illinois, or any other municipal corporation or political subdivision thereof.

(Ord. 4497, Amended, 04/15/2003; 4101, Renumbered, 02/08/1999; 3741, Enacted, 04/24/1995)

Section 21.701. Definitions.

For the purpose of this Article, the following definitions shall apply:

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

(2) "Public Utilities Act" means the Public Utilities Act as amended, (220 ILCS 5/1-101 *et seq.*

(3) "Public Utility" means a public utility as defined in Section 3-105 of the Public Utilities Act. (1996)).

(4) "Retail Purchaser" means any person who purchases gas in a Sale at Retail.

(5) "Sale at Retail" means any sale of gas by a retailer to a person for use or consumption, and not for resale. For this purpose, the term "retailer" means any person engaged in the business of distribution, supplying, furnishing or selling gas.

(Ord. 4497, Amended, 04/15/2003; 4321, Amended, 08/07/2001; 4115, Amended, 04/05/1999; 4101, Renumbered, 02/08/1999; 4065, Amended, 09/14/1998; 3741, Enacted, 04/24/1995)

Section 21.702. Tax.

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(a) Except as otherwise provided by this Article, a tax is imposed on the privilege of using or consuming gas in the Village that is purchased in a Sale at Retail at the rate of 1.5 cents per therm.

(b) The ultimate incidence of and liability for payment of the tax is on the Retail Purchaser, and nothing in this Article shall be construed to impose a tax on the occupation of distributing, supplying, furnishing, selling or transporting gas.

(c) The Retail Purchaser shall pay the tax, measured by terms of gas delivered to the Retail Purchaser's premises, to the Public Utility designated to collect the tax pursuant to Section 21-701 of this Article on or before the payment due date of the Public Utility's bill first reflecting the tax, or directly to the Village Treasurer on or before the fifteenth day of the second month following the month in which the gas is delivered to the Retail Purchaser if no Public Utility has been designated to collect the tax pursuant to Section 21-703 or if the gas is delivered by a person other than a Public Utility so designated.

(d) Reserved.

(e) A purchaser who purchases gas for resale and therefore does not pay the tax imposed by this Article with respect to the use or consumption of the gas, but who later uses or consumes all or part of the gas, shall pay the tax directly to the Village Treasurer on or before the fifteenth day of the second month following the month in which the gas is used or consumed.

(f) The tax shall apply to gas for which the delivery to the Retail Purchaser is billed by a Public Utility on or after May 1, 2003.

(Ord. 4497, Amended, 04/15/2003; 4101, Renumbered, 02/08/1999; 3741, Enacted, 04/24/1995)

Section 21.703. Collection of Tax.

(a) The Village Treasurer is authorized to enter into a contract for collection of the tax imposed by this Article with any Public Utility providing gas service in the Village. The contract shall include and substantially conform with the following provisions:

(1) the Public Utility will collect the tax with respect to gas delivered by it to its customers as an independent contractor;

(2) the Public Utility will remit collected taxes to the Village Treasurer no more often than once each month;

(3) the Public Utility will be entitled to withhold from tax collections a service fee not to exceed three percent (3%) of the amounts collected and timely remitted to the Village Treasurer.

(4) the Public Utility shall not be liable to the Village for any tax not actually collected from a Retail Purchaser; and

(5) such additional terms as the parties may agree upon.

(b) A Public Utility designated to collect the tax imposed by this Article from its customers shall bill each customer for the tax on all gas delivered to the customers unless (i) the customer's use or consumption is exempt from the tax pursuant to a duly passed and authorized ordinance of the Village, or (ii) the Public Utility has received written notification from the Village that the customer is exempt from the tax.

(Ord. 4497, Amended, 04/15/2003; 4101, Renumbered, 02/08/1999; 3741, Enacted, 04/24/1995)

Section 21.704. Books and Records.

Every taxpayer shall keep accurate books and records, including original source documents and books of entry, denoting the activities or transactions that gave rise, or may have given rise to any tax liability or exemption under this Article. All such books and records shall, at all times during business hours, be subject to and available for inspection by the Village.

(Ord. 4497, Amended, 04/15/2003; 4101, Renumbered, 02/08/1999; 3741, Enacted, 04/24/1995)

Section 21.705. through 21.799. Reserved.

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(Ord. 4497, Amended, 04/15/2003; 4101, Renumbered, 02/08/1999; 3741, Enacted, 04/24/1995)

Section 21.800ART. Article VIII. Telecommunications Tax

(Ord. 5637, Amended, 07/18/2017; Ord. 4487, Amended, 03/18/2003; 4101, Renumbered, 02/08/1999; 3743, Enacted, 04/24/1995)

Section 21.800SEC. Telecommunications Tax.

The telecommunications tax imposed by the following Sections of this Ordinance shall be known as the "Downers Grove Simplified Municipal Telecommunications Tax" and is imposed in addition to all other taxes imposed in this Chapter, or elsewhere in this Village, the State of Illinois or any other political subdivision thereof.

(Ord. 4497, Amended, 04/15/2003; Ord. 4487, Amended, 03/18/2003; 4101, Renumbered, 02/08/1999; 3743, Enacted, 04/24/1995)

Section 21.801. Definitions.

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

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

(b) "Department" means the Illinois Department of Revenue.

(c) "Gross charge" means the amount paid for the act or privilege of originating or receiving telecommunications in this municipality and for all services and equipment provided in connection therewith by a retailer, valued in money whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. "Gross charges" for private line service shall include charges imposed at each channel termination point within a municipality that has imposed a tax under this Article and charges for the portion of the inter-office channels provided within that municipality. Charges for that portion of the inter-office channel connecting two (2) or more channel termination points, one (1) or more of which is located within the jurisdictional boundary of such municipality, shall be determined by the retailer by multiplying an amount equal to the total charge for the inter-office channel by a fraction, the numerator of which is the number of channel termination points that are located within the jurisdictional boundary of the municipality and the denominator of which is the total number of channel termination points connected by the inter-office channel. However, "gross charge" shall not include any of the following:

(1) any amounts added to a purchaser's bill because of a charge made pursuant to: (i) the tax imposed by this Ordinance, (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.

(2) charges for a sent collect telecommunication received outside of such municipality.

(3) charges for leased time on equipment or charges for the storage of data or information for subsequent retrieval or the processing of data or information intended to change its form or content. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment or accounting equipment and also includes the usage of

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computers under a time-sharing agreement.

(4) charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges.

(5) charges to business enterprises certified as exempt under Section 9-222.1 of the Public Utilities Act to the extent of such exemption and during the period of time specified by the Department of Commerce and Economic Opportunity.

(6) charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries when the tax imposed under this Ordinance has already been paid to a retailer and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit for the corporation rendering such service.

(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 telecommunication devices.

(9) amounts paid by telecommunications retailers under the Telecommunications Infrastructure Maintenance Fee Act.

(10) 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.

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

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

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

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

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

(i) "Retailer maintaining a place of business in this State", or any like term, means and includes any retailer having or maintaining within 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

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

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

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

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

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

(Ord. 4963, Amended, 03/18/2008; Ord. 4487, Amended, 03/18/2003; 4101, Renumbered, 02/08/1999; 3743, Enacted, 04/24/1995)

Section 21.802. 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 municipality or receiving in the municipality 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

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municipality that was not previously allowed as a credit against any other municipal tax.

(b) The act or privilege of originating in the municipality or receiving in the municipality interstate telecommunications by a person at a rate of six percent (6%) of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-state or multi-municipal taxation of the act or privilege that is subject to taxation under this 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 Ordinance 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 municipality.

(Ord. 4963, Amended, 03/18/2008; Ord. 4940, Amended, 12/18/2007; Ord. 4487, Amended, 03/18/2003; 4393, Amended, 04/02/2002; 4321, Amended, 08/07/2001; 4278, Amended, 04/20/2001; 4101, Renumbered, 02/08/1999; 3743, Enacted, 04/24/1995)

Section 21.803. Collection of Tax by Retailers.

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

(Ord. 4487, Amended, 03/18/2003; 4101, Renumbered, 02/08/1999; 3743, Enacted, 04/24/1995)

Section 21.804. Returns to Department.

On or before the last day of every month thereafter, the tax imposed under this Ordinance 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 635/1 *et seq.*) and any accompanying rules and regulations created by the Department to implement the Act.

(Ord. 5637, Amended, 07/18/2017; Ord. 4487, Amended, 03/18/2003; 4101, Renumbered, 02/08/1999; 3743, Enacted, 04/24/1995)

Section 21.805. 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.

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(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.

(Ord. 4487, Amended, 03/18/2003; 4101, Renumbered, 02/08/1999; 3743, Enacted, 04/24/1995)

Section 21.806. Reserved.

(Ord. 5637, Amended, 07/18/2017; Ord. 4487, Amended, 03/18/2003; 4101, Renumbered, 02/08/1999; 3743, Enacted, 04/24/1995)

Section 21.807. Severability.

If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

(Ord. 4487, Amended, 03/18/2003; 4101, Renumbered, 02/08/1999; 3743, Enacted, 04/24/1995)

Section 21.808. through 21.899. Reserved

(Ord. 5637, Amended, 07/18/2017; Ord. 4487, Amended, 03/18/2003; 4101, Renumbered, 02/08/1999; 3743, Enacted, 04/24/1995)

Section 21.900ART. Article IX. FOOD AND BEVERAGE TAX

(Ord. 5637, Amended, 07/18/2017; Ord. 4487, Amended, 03/18/2003; 4012, Enacted, 03/09/1998)

Section 21.901. General.

This Article 21.900 shall be known and cited as the Village of Downers Grove Food and Beverage Tax Ordinance. The tax imposed by this Article 21.900 shall be known as the "Downers Grove Food and Beverage Tax" and is imposed in addition to all other taxes imposed by the Village of Downers Grove, the State of Illinois, or any other municipal corporation or political subdivision thereof.

(Ord. 5637, Amended, 07/18/2017; Ord. 4487, Amended, 03/18/2003; 4012, Enacted, 03/09/1998)

Section 21.902. Definitions.

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

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Beverages. All alcoholic and non-alcoholic beverages.

Owner. Any person having an ownership interest in or conducting the operation of a Retail Food Facility and/or Retail Liquor Facility.

Person. Any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian or other representative appointed by order of court, or other legally recognized entity.

Prepared food. Any and all commodities, whether solid, semi-solid, or liquid (including both alcoholic and non-alcoholic liquid) used or intended to be used for human consumption, enjoyment or nourishment of the human body, whether simple compound or mixed and which has been prepared for immediate consumption.

Purchase/Sale at Retail. To obtain food, beverages and alcoholic liquor for use or consumption in exchange for a consideration, whether in the form of money, credits, barter or any other nature, and not for resale, with said transaction being subject to either the Illinois retailers' occupation tax or the Illinois service occupation tax.

Retail Food Facility. Includes any place at which food items or beverages are served and/or prepared for immediate consumption by a business which provides for on premise consumption of said food or beverages, including, but not limited to, those establishments commonly called an inn, restaurant, eating place, drive-through restaurant, bakery, confectionery, buffet, cafeteria, cafe, lunch counter, fast food outlet, catering service, coffee shop, diner, sandwich shop, soda fountain, tavern, bar, cocktail lounge, soft drink parlor, ice cream parlor, tearoom, delicatessen, banquet facility, movie theater, hotel, motel or club. Where a facility is only partially intended to permit on site consumption of food (such as a grocery store with a prepared food service area), only that portion of the facility selling prepared food shall be considered a Retail Food Facility.

Retail Liquor Facility. Any establishment licensed under Chapter 3 of the Downers Grove Municipal Code with respect to the sale of liquor.

Retailer. A person who sells, or offers for sale, food, beverages and alcoholic liquor for use or consumption and not for resale.

(Ord. 5637, Amended, 07/18/2017; Ord. 4487, Amended, 03/18/2003; 4012, Enacted, 03/09/1998)

Section 21.903. Tax Imposed.

(A) Commencing on January 1, 2018, a tax is hereby imposed upon the privilege of the retail purchase of alcoholic liquor, food or beverages at any "Retail Food Facility" or "Retail Liquor Facility", as herein defined, within the Village of Downers Grove, at the rate of one percent (1%) of the purchase price of such alcoholic liquor, food or beverage, the ultimate incidence of and liability for payment of which shall be borne by the purchaser thereof.

(B) The tax herein levied shall be paid in addition to any and all other taxes and charges.

(C) The owner and operator of each Retail Food Facility and each Retail Liquor Facility within the Village shall be entitled to withhold from tax collections a service fee of two percent (2%) of the amounts collected and timely remitted to the Village. No service fee may be claimed or withheld by any owner or operator for taxes not timely remitted to the Village.

(Ord. 5637, Amended, 07/18/2017; Ord. 4487, Amended, 03/18/2003; 4012, Enacted, 03/09/1998)

Section 21.904. Exemptions.

No such tax shall be levied or imposed upon purchasers for the privilege of purchasing:

(A) Food and beverages which are exempt from tax under the provisions of the retailers' occupation tax or the Illinois service occupation tax, as amended from time to time.

(B) Prepared food items for immediate consumption purchased in hermetically sealed containers and not reasonably expected or intended by the seller for immediate on-premise consumption.

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- (C) Prepared food items for immediate consumption purchased at employee cafeterias, when entrance to such cafeteria is limited to employees and guests of employees.
 - (D) Prepared food items for immediate consumption purchased from institutions such as churches, day care establishments, residential halls, fraternities, sororities, schools, government entities, hospitals, nursing homes and other medical treatment centers and transitional shelters.
 - (E) Food or beverages purchased from vending machines or mobile food vendors.
 - (F) Food and beverages purchased from vendors at community wide festivals and events.
- (Ord. 5637, Amended, 07/18/2017; Ord. 4487, Amended, 03/18/2003; 4012, Enacted, 03/09/1998)

Section 21.905. Collection of taxes by Retailer.

The owner and operator of each Retail Food Facility and each Retail Liquor Facility within the Village shall jointly and severally have the duty to collect and account for said tax(es) from each purchaser at the time the consideration for such purchase is paid.

(Ord. 5637, Amended, 07/18/2017; Ord. 4487, Amended, 03/18/2003; 4012, Enacted, 03/09/1998)

Section 21.906. Books and Records; Inspections; Content.

(A) Each person required to pay the tax provided for hereunder shall, personally or through his/her authorized agents, maintain complete books and records covering the operation of the Retail Food Facility and Retail Liquor Facility so taxed, indicating therein all receipts from the operation of said facilities. Said records shall include the gross receipts for sales of food, beverages and alcoholic liquor and taxes collected each day pursuant to the food and beverage tax, purchase orders, invoices and receipts, and other documents listing, summarizing or pertaining to the transactions that gave rise, or may have given rise, to the tax liability or exemption that may be claimed and copies of the Illinois retailers' occupation tax and Illinois service occupation tax returns filed with the Illinois Department of Revenue (IDOR). Such books shall be maintained on the premises and shall be subject to inspection by the Village and its duly authorized agents at all reasonable hours during business hours of the day.

(B) No person shall prevent, hinder or interfere with the Village and its duly authorized agent(s) in the discharge of his/her duties in the performance of this Article.

(Ord. 5637, Amended, 07/18/2017; Ord. 4487, Amended, 03/18/2003; 4012, Enacted, 03/09/1998)

Section 21.907. Filing of Return.

The owner and the operator of each Retail Food Facility and Retail Liquor Facility within the Village shall jointly and severally file a sworn return with the Village Treasurer for each such facility. Said return shall be prepared and submitted on forms prescribed by the Village. Said return shall be filed or postmarked (either of which shall constitute timely payment) and on or before the twenty-fifth (25th) day of each calendar month. Said return shall also be accompanied by payment to the Village of all taxes imposed by this Article which are due and owing for the period covered by said return. Said return shall also be accompanied with a copy of the retailers' occupational tax form, form ST-1 filed with IDOR covering the same reporting period.

(Ord. 5637, Amended, 07/18/2017; Ord. 4487, Amended, 03/18/2003; 4012, Enacted, 03/09/1998)

Section 21.908. Late Payment and Other Penalties.

(A) If the tax imposed herein is not paid when due, a late payment penalty at the rate of one percent (1%) per thirty (30) day period, or portion thereof, shall be imposed and added and collected.

(B) Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this article shall be punished by a fine of not less than two hundred dollars (\$200.00) nor more than seven hundred fifty dollars (\$750.00) for the first offense, and not less than five hundred dollars

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(\$500.00) nor more than one thousand dollars (\$1,000.00) for the second and each subsequent offense.

(C) Each day upon which a person shall continue any violation of this Article, or permit any such violation to exist after notification thereof, shall constitute a separate and distinct offense.

(D) Any person subjected to the penalties provided for in this Article, shall not be discharged or released from the payment of any tax due hereunder.

(Ord. 5637, Amended, 07/18/2017; Ord. 4487, Amended, 03/18/2003; 4012, Enacted, 03/09/1998)

Section 21.909. Transmittal of Excess Tax Collection.

If any person collects an amount upon a sale not subject to the tax imposed herein, but which amount is purported to be the collection of said tax, or if a person collects an amount upon a sale greater than the amount of the tax so imposed herein and does not for any reason return the same to the purchaser who paid the same before filing the return for the period in which such occurred, said person shall account for and pay over those amounts to the Village along with the tax properly collected.

(Ord. 5637, Amended, 07/18/2017; Ord. 4487, Amended, 03/18/2003; 4012, Enacted, 03/09/1998)

Section 21.910. Registration.

Every owner and operator of any Retail Food Facility and Retail Liquor Facility within the Village shall register with the Village Treasurer on a form prescribed by the Village no later than October 1, 2017, or the date of becoming such an owner and operator, whichever is later. In addition, the failure to collect, account for and pay over said tax and any penalty shall be cause for suspension or revocation of any Village license or permit issued for such Retail Food Facility or Retail Liquor Facility or applicable to the premises thereof, all in addition to any other penalties. Pending notice, hearing and finding, in accordance with Article 21.1200, any license possessed by the person may be temporarily suspended. Any suspension or revocation of any license or permit shall not release or discharge the owner or operator from any liability for the payment of the tax nor from prosecution for such offense.

(Ord. 5637, Add, 07/18/2017)

Section 21.911. Collection of Tax.

Whenever any person shall fail to pay any tax as herein provided, the Village Attorney shall have the right to bring, or cause to be brought, an action to enforce the payment of the tax(es) on behalf of the Village in any court having competent jurisdiction.

(Ord. 5637, Add, 07/18/2017)

Section 21.912. Severability.

If any provision of this Article, the application of any provision of this Article, or the imposition of this tax on any particular transaction, person or item of tangible personal property is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Article or their application to other transactions, persons or items of tangible personal property. It is the express intention of the corporate authorities that each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Article. It is also the express intention of the corporate authorities that if any exemption contained in this Article is held unconstitutional or otherwise invalid, then this Article shall be applied as if such exemption had not been enacted.

(Ord. 5637, Add, 07/18/2017)

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Section 21.913. through 21.999. Reserved.

(Ord. 5637, Add, 07/18/2017)

Section 21.1000ART. Article X. Electricity Tax

(Ord. 5637, Amended, 07/18/2017; 4065, Renumbered, 09/14/1998; 4046, Enacted, 07/06/1998)

Section 21.1000SEC. Definitions.

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

"Village" means the Village of Downers Grove.

"Person" means any natural, individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, limited liability company, municipal corporation, the State or any of its political subdivisions, any State university created by statute, or a receiver, trustee, conservator or other representative appointed by order of any court.

"Person maintaining a place of business in this State" means any person having or maintaining within this State, directly or by a subsidiary or other affiliate, an office, generation, facility, distribution facility, transmission facility, sales office or other place of business, or any employee, agent, or other representative operating within this State under the authority of the person or its subsidiary or other affiliate, irrespective of whether such place of business or agent or other representative is located in this State permanently or temporarily, or whether such person, subsidiary or other affiliate is licensed or qualified to do business in this State.

"Purchase at retail" means any acquisition of electricity by a purchaser for purposes of use or consumption, and not for resale, but shall not include the use of electricity by a public utility, as defined in Section 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-2), directly in the generation, production, transmission, delivery or sale of electricity.

"Purchaser" means any person who uses or consumes, within the corporate limits of the Village, electricity acquired in a purchase at retail.

"Tax collector" means the person delivering electricity to the purchaser.
(4065, Renumbered, 09/14/1998; 4046, Enacted, 07/06/1998)

Section 21.1001. Tax imposed.

(a) Pursuant to Section 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-2) and any and all other applicable authority, a tax is imposed upon the privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the Village at the following rates, calculated on a monthly basis for each purchaser:

(i) For the first 2,000 kilowatt-hours used or consumed in a month; 0.391 cents per kilowatt-hour;

(ii) For the next 48,000 kilowatt-hours used or consumed in a month; 0.257 cents per kilowatt-hour;

(iii) For the next 50,000 kilowatt-hours used or consumed in a month; 0.231 cents per kilowatt-hour;

(iv) For the next 400,000 kilowatt-hours used or consumed in a month; 0.225 cents per kilowatt-hour;

(v) For the next 500,000 kilowatt-hours used or consumed in a month; 0.218 cents per kilowatt-hour;

(vi) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.205 cents per kilowatt-hour;

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(vii) For the next 2,000,000 kilowatt-hours used or consumed in a month; .0202 cents per kilowatt-hour;

(viii) For the next 5,000,000 kilowatt-hours used or consumed in a month; 0.199 cents per kilowatt-hour;

(ix) For the next 10,000,000 kilowatt-hours used or consumed in a month; 0.196 cents per kilowatt-hour; and

(x) For all electricity used or consumed in excess of 20,000,000 kilowatt-hours in a month; 0.193 cents per kilowatt-hour.

(b) The tax is in addition to all taxes, fees and other revenue measures imposed by the Village, the State of Illinois or any other political subdivision of the State.

(c) Notwithstanding any other provision of this Article, the tax shall not be imposed if and to the extent that imposition or collection of the tax would violate the Constitution or statutes of the United States or the Constitution of the State of Illinois.

(d) The tax shall be imposed with respect to the use or consumption of electricity by residential customers beginning with the first bill issued on or after May 1, 1999; and with respect to the use or consumption of electricity by nonresidential customers beginning with the first bill issued to such customers for delivery services in accordance with Section 16-104 of the Public Utilities Act (220 ILCS 5/16-104), or the first bill issued to such customers on or after January 1, 2001, whichever issuance occurs sooner.

(Ord. 4498, Amended, 04/15/2003; 4115, Amended, 04/05/1999; 4065, Renumbered, 09/14/1998; 4046, Enacted, 07/06/1998)

Section 21.1002. Collection of tax.

Except as provided in Section 21.1003, 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 Village by such person delivering the electricity, provided that the person delivering the electricity shall be allowed a credit for such tax related to deliveries of electricity the charges for which are written off as uncollectible, and provided further, that if such charges are thereafter collected, the delivering supplier shall be obligated to remit such tax. 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 reimburse the person delivering electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the Village upon request. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the Village in the manner prescribed by the Village. Person delivering electricity who file returns pursuant to this Section shall, at the time of filing such return, pay the Village the amount of the tax collected pursuant to this Article. For purposes of this Article, any partial payment of a billed amount not specifically identified by the purchaser shall be deemed to be for the delivery of electricity.

(Ord. 5637, Amended, 07/18/2017; 4065, Renumbered, 09/14/1998; 4046, Enacted, 07/06/1998)

Section 21.1003. Tax remittance and return.

(a) On or before the last day of each month, each taxpayer who has not paid the tax imposed by this Article to a person delivering electricity as set forth in Section 21.1002, and who is not otherwise exempted from paying such tax, shall make a return to the Village Treasurer for the preceding month stating:

(1) Name.

(2) Principal place of business.

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(3) Gross receipts and/or kilowatt-hour usage during the month upon the basis of which the tax is imposed.

(4) Amount of tax.

(5) Such other reasonable and related information as the Village Treasurer may require.

(b) The taxpayer making the return herein provided for shall, at the time of making such return, pay to the Village of Downers Grove, the amount of tax herein imposed. Provided, in connection with any return, the taxpayer may, if he so elects, report and pay an amount based upon his/her 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.

(Ord. 5637, Amended, 07/18/2017; Ord. 4852, Amended, 02/20/2007, his to his/her(s); 4065, Renumbered, 09/14/1998; 4046, Enacted, 07/06/1998)

Section 21.1004. Books and Records.

Every tax collector, and every taxpayer required to pay the tax imposed by this Article shall keep accurate books and records of its business or activity, including contemporaneous books and records denoting the transactions that gave rise, or may have given rise, to any tax liability under this Article. The books and records shall be subject to and available for inspection by the Village at all times during business hours of the day.

(Ord. 5637, Amended, 07/18/2017; 4065, Renumbered, 09/14/1998; 4046, Enacted, 07/06/1998)

Section 21.1005. Credits and refunds.

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, no amounts erroneously paid more than one (1) year prior to the filing of a claim therefor shall be so credited and no action to recover any amount of tax due under the provisions of this Article IX shall be commenced more than one (1) year after the due date of such amount.

(4065, Renumbered, 09/14/1998; 4046, Enacted, 07/06/1998)

Section 21.1006. 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 shall be subject to penalty as provided in the Downers Grove Village Code. In addition, shall be liable in a civil action for the amount of tax due.

(A) Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this article shall be punished by a fine of not less than two hundred dollars (\$200.00) nor more than seven hundred fifty dollars (\$750.00) for the first offense, and not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) for the second and each subsequent offense.

(B) Each day upon which a person shall continue any violation of this Article, or permit any such violation to exist after notification thereof, shall constitute a separate and distinct offense.

(C) Any person subjected to the penalties provided for in this Article, shall not be discharged or released from the payment of any tax due hereunder.

(Ord. 5637, Amended, 07/18/2017; 4065, Renumbered, 09/14/1998; 4046, Enacted, 07/06/1998)

Section 21.1100ART. Article XI. Municipal Motor Fuel Tax

(4075, Enacted, 10/12/1998)

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Section 21.1101. Tax Imposed.

(a) There is hereby imposed and levied a tax upon the retail purchase within the Village of motor fuel, at the rate of one and one-half cents (\$0.015) per gallon or fraction thereof.

(b) This tax shall be in addition to any and all other taxes.

(c) The ultimate incidence and liability for payment of such tax shall be upon the retail purchaser of motor fuel. Nothing herein shall be construed to impose a tax upon the occupation of selling motor fuel.

(Ord. 5637, Amended, 07/18/2017; Ord. 4844, Amended, 12/19/2006; Ord. 4488, Amended, 03/18/2003; 4075, Enacted, 10/12/1998)

Section 21.1102. Collection of Tax.

(a) Each motor fuel retailer in the Village shall have the duty to collect the motor fuel tax from each purchaser and to pay it over to the Village, along with an accounting therefor, on return forms provided by the Village.

(b) On or before the twenty-fifth day of each calendar month, each motor fuel retailer in the Village shall file, with the Director of Finance, a tax payment and a monthly tax return showing tax receipts with respect to the number of gallons of fuel sold during the prior month. The Village, in its discretion, may request from the retailer, a copy of their ST-1 Illinois Department of Revenue Retailer's Occupation Tax Return form. The retailer shall submit said requested form within thirty (30) days of the request. Any failure to supply documentation to substantiate correct payment shall be deemed a violation of this Code.

(Ord. 4653, Amended, 02/15/2005; Ord. 4553, Amended, 12/02/2003; 4075, Enacted, 10/12/1998)

Section 21.1103. Registration And Maintenance of Records.

(a) Each motor fuel retailer shall register with the Village on forms provided by the Finance Director.

(b) Each motor fuel retailer shall have the duty to maintain complete and accurate books, records and accounts showing the gross receipts for the sale of motor fuel and the taxes collected from the purchaser thereof, which shall be available in the Village for examination and for audit by the Village upon reasonable notice during customary business hours.

(4075, Enacted, 10/12/1998)

Section 21.1104. Use of Motor Fuel Tax Receipts.

Monies collected pursuant to this Article shall be used for capital improvements or any other Village operational needs.

(Ord. 5637, Amended, 07/18/2017; Ord. 4844, Amended, 12/19/2006; 4075, Enacted, 10/12/1998)

Section 21.1105. Late Payment Penalty.

If any tax imposed by this Article is not paid over to the Village when due, a late payment penalty equal to one percent (1%) of the unpaid tax shall be added for each month, or any portion thereof, that such tax remains unpaid and the total of such late payment penalty shall be paid along with the tax imposed hereby. The Village may bring a civil action to collect any unpaid tax or penalty.

(4075, Enacted, 10/12/1998)

Section 21.1106. Penalty.

(A) Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any

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of the provisions of this article shall be punished by a fine of not less than two hundred dollars (\$200.00) nor more than seven hundred fifty dollars (\$750.00) for the first offense, and not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) for the second and each subsequent offense.

(B) Each day upon which a person shall continue any violation of this Article, or permit any such violation to exist after notification thereof, shall constitute a separate and distinct offense.

(C) Any person subjected to the penalties provided for in this Article, shall not be discharged or released from the payment of any tax due hereunder.

(Ord. 5637, Amended, 07/18/2017; 4075, Enacted, 10/12/1998)

Section 21.1107. Acts of Agent or Employee.

Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Article, by any officer, director, manager or other agent or employee of an owner, shall be deemed and held to be the act of such owner, and said owner shall be liable and punishable in the same manner as if said act or omission had been done or omitted by said owner personally.

(4075, Enacted, 10/12/1998)

Section 21.1108. Severability.

If any provision of this Article or the application thereof to any person or circumstance is held invalid, the remainder of this Article and the application thereof to other persons or circumstances shall not be affected thereby.

(4075, Enacted, 10/12/1998)

Section 21.1200ART. Article XII. Locally Imposed and Administered Tax Rights and Responsibilities

(Ord. 5637, Amended, 07/18/2017; 4258, Enacted, 03/06/2001)

Section 21.1200SEC. Title.

This ordinance shall be known as, and may be cited as, the "Locally Imposed and Administered Tax Rights and Responsibility Ordinance."

(4075, Enacted, 10/12/1998)

Section 21.1201. Scope.

The provisions of this ordinance shall apply to the Village's procedures in connection with all of the Village's locally imposed and administered taxes.

(4258, Enacted, 03/06/2001)

Section 21.1202. Definitions.

Certain words or terms herein shall have the meaning ascribed to them as follows:

"Act" means the "Local Government Taxpayers' Bill of Rights Act."

"Corporate Authorities" means the Village's Mayor and Village Council.

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

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

"Village" means the Village of Downers Grove, Illinois.

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

"Tax Ordinance" means each ordinance adopted by the Village that imposes any locally imposed and administered tax.

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

(4258, Enacted, 03/06/2001)

Section 21.1203. Notices.

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

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

(b) Personal service or delivery.

(4258, Enacted, 03/06/2001)

Section 21.1204. Late payment.

Any notice, payment, remittance or other filing required to be made to the Village pursuant to any tax ordinance shall be considered late unless it is:

(a) physically received by the Village on or before the due date, or

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

(4258, Enacted, 03/06/2001)

Section 21.1205. Payment.

Any payment or remittance received for a tax period shall be applied in the following order:

(1) first to the tax due for the applicable period;

(2) second to the interest due for the applicable period; and

(3) third to the penalty for the applicable period.

(4258, Enacted, 03/06/2001)

Section 21.1206. Certain Credits and Refunds.

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

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(b) The statute of limitations on a claim for credit or refund shall be four (4) or less years after the end of the calendar year in which payment in error was made. The Village shall not grant a credit or refund of locally imposed and administered taxes, interest, or penalties to a person who has not paid the amounts directly to the Village.

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

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

(ii) the name of the locally imposed and administered tax subject to the claim;

(iii) the tax period for the locally imposed and administered tax subject to the claim;

(iv) the date of the tax payment subject to the claim and the canceled check or receipt for the payment;

(v) the taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and

(vi) a request for either a refund or a credit in connection with the claim to be applied to the amount of tax, interest and penalties overpaid, and, as applicable, related interest on the amount overpaid; provided, however, that there shall be no refund and only a credit given in the event the taxpayer owes any monies to the Village.

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

(i) grant the claim; or

(ii) 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.

(e) In the event the local tax administrator grants, in whole or in part, a claim for refund or credit, the amount of the grant for refund or credit shall bear interest at the rate of one percent (1%) per annum, based on a year of 365 days and the number of days elapsed, from the date of the overpayment to the date of mailing of a refund check or the grant of a credit.

(4258, Enacted, 03/06/2001)

Section 21.1207. Audit Procedure.

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

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

(i) the tax;

(ii) the time period of the audit; and

(iii) a brief description of the books and records to be made available for the auditor.

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

(c) The taxpayer may request an extension of time to have an audit conducted.

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

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

(e) It is the duty and responsibility of every taxpayer to make available its books and records for

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inspection by the Village. If the taxpayer or tax collector fails to provide the documents necessary for audit within the time provided, the local tax administrator may issue a tax determination and assessment based on the tax administrator's determination of the best estimate of the taxpayer's tax liability.

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

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

(h) In the event that any taxpayer is not compliant with the procedures for payments of taxes pursuant to this Code, the Village may determine that an audit of the books and records is warranted. In this case, the Village may charge the cost of an independent auditor back to the non-compliant taxpayer.

(Ord. 4553, Amended, 12/02/2003; 4258, Enacted, 03/06/2001)

Section 21.1208. Appeal.

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

- (i) the reason for the assessment;
- (ii) the amount of the tax liability proposed;
- (iii) the procedure for appealing the assessment; and
- (iv) the obligations of the Village during the audit, appeal, refund and collection

process.

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

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

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

(e) Upon the showing of reasonable cause by the taxpayer and the full payment of the contested tax liability along with interest accrued as of the due date of the tax, the local tax administrator may reopen or extend the time for filing a written protest and petition for hearing.

In no event shall the time for filing a written protest and petition for hearing be reopened or extended for more than ninety (90) days after the expiration of the forty-five day period.

(4258, Enacted, 03/06/2001)

Section 21.1209. Hearing.

(a) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under Section 21-1208, above, the local tax administrator shall conduct a hearing regarding any appeal. The taxpayer may request that a hearing officer conduct the hearing rather than the local tax administrator. The hearing officer shall be the Village Attorney, or the Village Attorney's designee.

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

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

(d) At the conclusion of the hearing, the local tax administrator or hearing officer 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.

(4258, Enacted, 03/06/2001)

Section 21.1210. Interest and Penalties.

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

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

(b) Late Filing and Payment Penalties. If a tax return is not filed within the time and manner provided by the controlling tax ordinance, a late filing penalty, of one percent (1%) of the amount of tax required to be shown as due on a return shall be imposed. If no return is filed within the time or manner provided by the controlling tax ordinance and prior to the Village issuing a notice of tax delinquency or notice of tax liability, then a failure to file penalty shall be assessed equal to twenty-five percent (25%) of the total tax due for the applicable reporting period for which the return was required to be filed.

A late filing or payment penalty shall not apply if a failure to file penalty is imposed by the controlling ordinance.

(Ord. 5637, Amended, 07/18/2017; 4258, Enacted, 03/06/2001)

Section 21.1211. Abatement.

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

(4258, Enacted, 03/06/2001)

Section 21.1212. Installment Contracts.

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

(4258, Enacted, 03/06/2001)

Section 21.1213. Statute of Limitations.

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

(a) No determination of tax due and owing may be issued more than four (4) years after the

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end of the calendar year for which the return for the applicable period was filed or for the calendar year in which the return for the applicable period was due, whichever occurs later.

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

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

(4258, Enacted, 03/06/2001)

Section 21.1214. Voluntary Disclosure.

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

(4258, Enacted, 03/06/2001)

Section 21.1215. Publication of Tax Ordinances.

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

(4258, Enacted, 03/06/2001)

Section 21.1216. Internal Review.

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

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

(4258, Enacted, 03/06/2001)

Section 21.1217. Application.

This ordinance shall be liberally construed and administered to supplement all of the Village's tax

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ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with this ordinance, this ordinance shall be controlling.

(4258, Enacted, 03/06/2001)

Section 21.1218. Severability.

If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

(4258, Enacted, 03/06/2001)