TITLE 3: BUSINESS & LICENSE REGULATIONS
CHAPTER 1: TAXES

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3-1-1: RETAILERS' OCCUPATION TAX

A. Tax Imposed: A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property at retail in this Village at the rate as established in the Comprehensive Fee Schedule set forth in Chapter 15 of Title 1 of this Code, business, in accordance with the provisions of section 8-11-1 of the Illinois Municipal Code.(Amd. Ord. 98-1550-12 eff. 4/13/98)

B. Accounting: Every such person engaged in such business in the Village shall file on or before the last day of each calendar month, the report to the State Department of Revenue required by Section three of "An Act in Relation to a Tax upon Persons Engaged in the Business of Selling Tangible Personal Property to Purchase for Use or Consumption" approved June 28, 1933, as amended.

C. Payment: At the time such report is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed on account of the receipts from sales of tangible personal property during the preceding calendar month. (Ord. 69-211-12)

D. Exemption Not Applicable: That the exemption set forth in 35 ILCS 120/1d shall not apply to the retailer's occupation tax herein imposed. (Ord. 82-698-5)

3-1-2: SERVICE OCCUPATION TAX

A. Tax Imposed: A tax is hereby imposed on all persons engaged in the business of making sales of services in this Village at the rate as established in the Comprehensive Fee Schedule set forth in Chapter 15 of Title 1 of this Code, 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 8-11-5 of the Illinois Municipal Code.(Amd. Ord. 98-15550-12 eff. 4/13/98)

B. Accounting: Every supplier and serviceman required to account for Municipal Service

Occupation Tax for the benefit of this municipality shall file, on or before the first day of each calendar month, the report to the State Department of Revenue required by section 9 of the "Service Occupation Tax Act", as amended.[1]

C. Payment: At the time such report is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed during the preceding calendar month. (Ord. 69-212-13)

D. That exemption (e) of section 439.102 of chapter 120 of the Illinois Revised Statutes shall not apply to the Service Occupation Tax herein imposed. (Ord. 82-698-5)

3-1-3: UTILITIES TAX

3-1-3-1: DEFINITIONS

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

GROSS RECEIPTS The consideration received for the distributing, supplying, furnishing or selling gas for use or consumption and not for resale, as the case may be; and for all services rendered in connection therewith valued 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 the service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expense whatsoever. Gross Receipts shall not include receipts received from the Village of Lincolnshire for the sale to said Village of any of the utility products or service mentioned above.

PERSON 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.

PUBLIC UTILITY A public utility as defined in Section 3-105 of the Public Utilities Act.

PUBLIC UTILITIES ACT The Public Utilities Act as amended, (220 ILCS 5/1-101 et seq.).

PURCHASER Any Person who uses or consumes electricity or gas purchased in a Purchase at Retail.

PURCHASE AT RETAIL Sale of gas or electricity by a retailer to a Person for use or consumption, and not for resale. For this purpose, the term Aretailer@ means any Person engaged in the business of distributing, supplying, furnishing or selling gas.

TAX COLLECTOR The person delivering electricity or gas to the Purchaser.

3-1-3-2: TAX IMPOSED

A tax is imposed on all persons engaged in the business of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of the Village and not for resale, at the rate of five percent (5%) of the gross receipts therefrom. (Amd. Ord. 09-3116-39, eff. 12/14/09)

3-1-3-2.1: ELECTRICITY CONSUMPTION TAX

(Ord.98-1592-54, eff. 8/24/98)(Amd. Ord. 09-3116-39, eff. 12/14/09)

[1] 35 ILCS 305/1

A. Tax Imposed.

1. Pursuant to Section 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-12) 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:

    a. For the first 2,000 kilowatt-hours used or consumed in a month; 0.536 cents per kilowatt-hour.

    b. For the next 48,000 kilowatt-hours used or consumed in a month; 0.366 cents per kilowatt-hour;

    c. For the next 50,000 kilowatt-hours used or consumed in a month; 0.325 cents per kilowatt-hour;

    d. For the next 400,000 kilowatt-hours used or consumed in a month; 0.321 cents per kilowatt-hour;

    e. For the first 500,000 kilowatt-hours used or consumed in a month; 0.319 cents per kilowatt-hour;

    f. For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.315 cents per kilowatt-hour;

    g. For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.250 cents per kilowatt-hour;

    h. For the next 5,000,000 kilowatt-hours used or consumed in a month; 0.200 cents per kilowatt-hour;

    i. For the next 10,000,000 kilowatt-hours used or consumed in a month; 0.150 cents per kilowatt-hour;

    j. For all electricity used or consumed in excess of 20,000,000 kilowatt-hours in a month; 0.100 cents per kilowatt-hour.

2. 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.

3. The tax shall be imposed with respect to the use or consumption of electricity as follows:

    a. By residential customers beginning with the first bill issued on or after September 1, 1998;

    b. By non-residential customers beginning with the first bill issued to such customers for delivery of 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.

B. Collection of Tax

1. Subject to the provisions of Subparagraph D regarding the delivery of electricity to resellers, the tax imposed under this Section 3-1-3-2.1 shall be collected from purchasers by the person maintaining a place of business in the State who delivers electricity to such purchasers. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and is recoverable at the same time and in the same manner as the original charge for delivering the electricity.

2. Any tax required to be collected by this Section 3-1-3-2.1, and any tax in fact collected, shall constitute a debt owed to the Village by the person delivering the electricity, provided, that the person delivering electricity shall be allowed 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.

3. 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 (3%) of the tax they collect to reimburse them for their expenses incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the Village upon request. For purposes of this Section 3-1-3-2.1, any partial payment of a billed amount not specifically identified by the purchaser shall be deemed to be for the delivery of electricity.

C. Tax Remittance and Return

1. Every tax collector shall on a monthly basis, file a return in a form prescribed by the Village. The return and accompanying remittance shall be due on or before the last day of the month following the month during which the tax is collected or is required to be collected.

2. If the person delivering electricity fails to collect the tax from the purchaser or is excused from collecting the tax under this Section 3-1-3-2.1, then the purchaser shall file a return in a form prescribed by the Village and pay the tax directly to the Village on or before the last day of the month following the month during which the electricity is used or consumed.

D. Resales

1. Electricity that is delivered to a person in this Village shall be considered to be for use and consumption by that person unless the person receiving the electricity has an active resale number issued by the Village and furnishes that number to the person who delivers the electricity, and certifies to that person that the sale is either entirely or partially nontaxable as a sale for resale.

2. If a person who receives electricity in the Village claims to be an authorized reseller of electricity, that person shall apply to the Village for a resale number. The applicant shall state facts showing why it is not liable for the tax imposed by this chapter on any purchases of electricity and shall furnish such additional information as the Village may reasonably require.

3. Upon approval of the application, the Village shall assign a resale number to the applicant and shall certify the number to the applicant.

4. The Village may cancel the resale number of any person if the person fails to pay any tax payable under this Section 3-1-3-2.1 for electricity used or consumed by the person, or if the number (1) was obtained through misrepresentation, or (2) is no longer necessary because the person has discontinued making resales.

a. If a reseller has acquired electricity partly for use or consumption and partly for resale, the reseller shall pay the tax imposed by this Article XVI directly to the Village pursuant to subsection 2 on the amount of electricity that the reseller uses or consumes, and shall collect and remit the tax pursuant to Section 3-1-3-2.1.

b. Any person who delivers electricity to a reseller having an active resale number and complying with all other conditions of this section shall be excused from collecting and remitting the tax on any portion of the electricity delivered to the reseller, provided that the person reports to the Village the total amount of electricity delivered to the reseller, and such other information that the Village may reasonably require.

E. Books and Records

Every tax collector, and every taxpayer required to pay the tax imposed by this Section 3-1-3-2.1, 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 Section 3-1-3-2.1. The books and records shall be subject to and available for inspection at all times during business hours of the day.

3-1-3-2.2: MUNICIPAL GAS USE TAX

A. Short Title

The tax imposed by this section shall be known as the AMunicipal Gas Use Tax@ and is imposed in addition to all other taxes imposed by the Village of Lincolnshire, the State of Illinois, or any other municipal corporation or political subdivision thereof.

B. Tax Imposed

1. Except as otherwise provided by Section, a tax is imposed on the privilege of using or consuming gas in the Village that is purchased in a Purchase at Retail at the rate as established in the Comprehensive Fee Schedule set forth in Chapter 15 of Title 1 of this Code.

2. The ultimate incidence of and liability for payment of the tax is on the Purchaser, and nothing in Section shall be construed to impose a tax on the occupation of distributing, supplying, furnishing, selling or transporting gas.

3. The Purchaser shall pay the tax, measured by therms of gas delivered to the Purchaser=s premises, to the Public Utility designated to collect the tax pursuant to subsection D of this Section on or before the payment due date of the Public Utility=s bill first reflecting the tax, or directly to the Director of Financial Systems on or before the fifteenth day of the second month following the month in which the gas is delivered to the Purchaser if no Public Utility has been designated to collect the tax pursuant to subsection D or if the gas is delivered by a person other than a Public Utility so designated.

4. Nothing in this Section shall be construed to impose a tax upon any person, business or activity which, under the Constitutions of the United States or State of Illinois, may not be

made the subject of taxation by the Village.

5. A Person who purchases gas for resale and therefore does not pay the tax imposed by this Section with respect to the use or consumption of the gas, but who later uses or consumes part or all of the gas, shall pay the tax directly to the Director of Financial Systems on or before the fifteenth day of the second month following the month in which the gas is used or consumed.

6. The tax shall apply to gas for which the delivery to the Purchaser is billed by a Public Utility on or after the effective date of this Ordinance.

7. To prevent multiple taxation, the use of gas in the Village by a Retail Purchaser shall be exempt from the tax imposed by this Section if the gross receipts from the Sale at Retail of such gas to the Retail Purchaser are properly subject to a tax imposed upon the seller of such gas pursuant to the Village=s municipal gas utility tax, as amended from time to time, Section 3-1-3-2, authorized pursuant to Section 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-2).

C. Collection of tax by Public Utility

The Village Manager and Director of Financial Systems are each authorized to enter into one or more contracts for collection of the tax imposed by this Section with any Public Utility delivering gas to any Purchaser in the Village. The contract shall include and substantially conform with the following provisions:

1. Public Utility will collect the tax from Purchasers as an independent contractor;

2. The Public Utility will remit collected taxes to the Director of Financial Systems no more often than once each month;

3. The Public Utility will be entitled to withhold from tax collections a service fee equal to 3% of the amounts collected and timely remitted to the Director of Financial Systems;

4. The Public Utility shall not be responsible to the Village for any tax unable to be collected from a Purchaser, provided the Public Utility applies the same diligence toward collecting the tax as it applies to collecting its own charges and fees; and

5. Such additional terms as the parties may agree upon.

D. Books and records

Every taxpayer and Public Utility 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 Section. Subject to applicable privacy laws, all such books and records shall, at all times during business hours, be subject to and available for inspection by the Village. (Amd. Ord. 09-3116-39, eff. 12/14/09)

3-1-3-3: INTERSTATE COMMERCE EXEMPTION

No tax is imposed by this Section 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 electricity, or engaged in the business of transmitting messages be subject to taxation

under the provisions of this Section 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. (1971 Code, '60-3-3)

3-1-3-4: TAX ADDITIONAL TO OTHER PAYMENTS

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 taxpayer's business. (1971 Code, '60-3-4)

3-1-3-5: REPORTS REQUIRED

On or before the 15th day of each month, each taxpayer shall make a return to the Village Manager for the previous month stating:

1. Taxpayer's name;

2. Taxpayer's principal place of business;

3. Taxpayer's gross receipts 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 Corporate Authorities may require.

The taxpayer making the return shall, at the time of making such return, pay to the Village Manager or his designee, the amount of tax imposed. (Ord. 01-1746-04, eff. 2/12/01)

3-1-3-6: ERRONEOUS PAYMENTS

If it shall appear that an amount of tax has been paid which was not due under the provisions of this Section, whether as the result of a mistake of fact or an error of law, then such -I amount shall be credited against any tax due, or to become due, under this Section 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. (1971 Code, '60-3-6)

3-1-3-7: RECOVERY; LIMITED ACTIONS

No action to recover any amount of tax due under the provisions of this Section shall be commenced more than three (3) years after the due date of such amount. (1971 Code, 60-3-7)

3-1-4: HOTEL AND MOTEL ROOM TAX:

3-1-4-1: DEFINITIONS

CONSIDERATION The total amount which a person is required to pay for the privilege of renting, leasing or letting a hotel or motel room, exclusive of charges for meals, beverages and other services which are available to members of the public who are not renting a hotel or motel room. (Ord. 11-3219-41)

HOTEL and MOTEL Includes every building or structure kept, used, maintained, advertised and held out to the public to be a place where lodging, or lodging and food, or suites, or other accommodations are offered for a consideration to transient guests, in which ten (10) or more rooms, or suites, or other accommodations are used for the lodging, or lodging and food, for such guests.(Amd. Ord. 05-1982-46, eff. 7/25/05)

OWNER Any person having an ownership interest in or conducting the operation of a hotel or motel room or receiving the Consideration for the rental of such hotel or motel room. (Ord. 11-3219-41)

PERSON Any natural person, trustee, receiver, administrator, executor, conservator, assignee, trust in perpetuity, trust, estate, firm, co-partnership, joint venture, club, company, business trust, domestic or foreign corporation, association, syndicate, society, or any group of individuals acting as a whether mutual, cooperative, fraternal, nonprofit, or otherwise. Whenever the term "person" is used in any clause Prescribing and imposing a penalty, the term as applied to associations shall mean the owners or part-owners thereof, and as applied to corporations, the officers thereof. (Ord. 75-382-12)

3-1-4-2: TAX IMPOSED; PAYMENT AND COLLECTION OF TAX

A. There is hereby levied and imposed upon the use and privilege of renting a hotel or motel room within the Village of Lincolnshire a tax, at the rate described in the Comprehensive Fee Schedule in Title 1, Chapter 15 of this Code, on the Consideration paid for each such hotel or motel room rented for every twenty-four (24) hour period or any fraction thereof for which additional consideration is paid; provided, however, that the tax shall not be levied and imposed upon any person who works and lives in the same hotel or motel; and further provided, that the tax shall not be levied upon directors, officers, agents or employees of the owner or operator of the hotel or motel when renting or using said rooms for, or in connection with, the transaction of business for such hotel or motel.

B. The ultimate incidence of and liability for payment of said tax is to be borne by the person who seeks the privilege of occupying the hotel or motel room and pays consideration in exchange for receiving such privilege, said person hereinafter referred to as Arenter.@

C. 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 to secure said tax from the renter of the hotel or motel room and to pay over to the Village Treasurer said tax under procedures prescribed by the Village Treasurer, or as otherwise provided in this ordinance.

D. Every person required to collect the tax levied by this ordinance shall secure said tax from the renter at the time he collects the Consideration for the hotel or motel room. Upon the invoice, receipt or other statement or memorandum of the Consideration given to the renter at the time of payment the amount due under the tax provided in this ordinance shall be stated separately on said documents. The person who collects the tax shall hold it as trustee for and on behalf of the Village. (Amd. Ord. 11-3219-41, eff. 11/28/11)

3-1-4-3: ADMINISTRATION AND ENFORCEMENT

A. The Village Treasurer is hereby designated as the administration and enforcement officer of the tax hereby imposed on behalf of the Village. It shall be the responsibility and duty of the Village Treasurer to collect all amounts due the Village from the Owners responsible for collecting and remitting the tax to the Village. A sworn monthly hotel and motel occupancy tax return, on a calendar month basis, shall be filed by each Owner with the Village Treasurer, on forms prescribed by him, showing all Consideration paid in exchange for the privilege of renting, leasing or letting of hotel or motel rooms during the preceding month. Said returns are to be filed within ten (10) days after the end of the month covered by said return, with the tax herein

imposed due and owing as of the first day of the month following the month covered by said return. Each return shall be accompanied by payment to the Village of all taxes due and owing for the month covered by the return; provided, however, that the Owner may retain an amount of money equal to two and one-half percent (2 1/2%) of the tax due as compensation for services rendered in the collection and payment of such tax.

B. During the normal business working hours, the Village Treasurer, or any person certified by him as his deputy or representative, may enter the premises of any Owner for the purposes of inspection and examination of its books and records for the proper administration of this Section, and for the enforcement of the collection of the tax hereby imposed. It is unlawful for any person to prevent, hinder or interfere with the Village Treasurer or his duly authorized deputy or representative in the discharge of his duties hereunder. It shall be the duty of every Owner to keep accurate and complete books and records, containing all information necessary for the collection of the tax herein imposed, to which the Village Treasurer or his duly authorized deputy or representative shall at all such times have full access, which records shall include a daily sheet showing: (a) the number of hotel or motel rooms for which Consideration was received during such twenty four (24) hour period, (b) the Consideration collected in exchange for granting a person the privilege of renting, leasing or letting each hotel or motel room; and (c) the actual hotel or motel room tax receipts collected for the date in question. (Amd. Ord. 11-3219-41, eff. 11/28/11)

3-1-4-4: SUIT FOR COLLECTION; REVOCATION OF LICENSE

Whenever any person shall fail to pay any taxes herein provided, or when any Owner shall fail to collect the tax hereby imposed from any person who has the ultimate liability for payment of the same, the Village Attorney shall, upon request of the Village Manager, bring or cause to be brought an action to enforce the payment of said tax on behalf of the Village in any court of competent jurisdiction. If the Mayor, after a hearing held by or for him, shall find that any Owner has willfully evaded his responsibility to collect the tax imposed by this Section, he may suspend or revoke all Village licenses, included but not limited to any liquor license issued under this Code, held by such person.

Said person shall have an opportunity to be heard at such hearing, to be held not less than five (5) days after notice is given of the time and place thereof, addressed to him at his last known place of business. Pending notice, hearing and finding, any license of which such person may be possessed may be temporarily suspended by the Mayor. Any suspension or conviction resulting from such hearing shall not relieve or discharge any civil liability for nonpayment of the tax due. (Amd. Ord. 11-3219-41, eff. 11/28/11)

3-1-4-5: INTEREST AND PENALTIES

In the event of failure by any Owner to collect and pay to the Village Treasurer the tax required hereunder within ten (10) days after the same shall be due, such tax shall be considered delinquent and be subject to the accrual of interest and assessment of penalties as provided for in this Chapter. (Amd. Ord. 07-3004-32, eff. 10/8/07) (Amd. Ord. 11-3219-41, eff. 11/28/11)

3-1-4-6: INTERSTATE COMMERCE EXCEPTION

No tax is imposed by this Section with respect to any transaction to the extent to which such business may not, under the Constitution of the United States, be made subject to taxation by this State or any political subdivision thereof. (Amd. Ord. 11-3219-41, eff. 11/28/11)

3-1-4-7: DISPOSITION OF PROCEEDS OF TAX

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

the general fund of the Village.

3-1-4-8: PENALTY FOR VIOLATION

In addition, any person found guilty in a court of competent jurisdiction of violating, disobeying, omitting, neglecting, or refusing to comply with or resisting or opposing the enforcement of any provision of this Section, upon conviction thereof, shall be subject to the fine set forth in the Comprehensive Fine Schedule of the Code described in 17-1. (Ord. 10-3131-08, eff. 3/22/10)

3-1-5: AMUSEMENT TAX

3-1-5-1: DEFINITIONS

ADMISSION FEE OR CHARGE: The monetary value of any form of consideration given or received for admission to any amusement, whether or not represented by a ticket or admission stub or receipt of any kind. An admission fee or charge includes, but is not limited to, the monetary value of all consideration paid as a condition of being granted admission for the purpose of attending ort participating or the privilege of witnessing the amusement.

AMUSEMENT Any event, activity, exhibition, performance, presentation, or show for presented for entertainment purposes which is exhibited or staged in the Village, including, but not limited to, the following:

A. Any comedic, theatrical, dramatic, musical, opera, or spectacular performance or production, or similar live or recorded entertainment;
B. Any show, antique or flower show, speech or lecture;
C. Any exhibition of art or handicrafts or products;
D. Any poultry or animal show, animal act, circus, or rodeo;
E. Any athletic contest, sport, game or similar exhibition such as, but not limited to, boxing, wrestling, skating, dancing, swimming, racing or riding of animals or vehicles, baseball, basketball, softball, football, tennis, golf, hockey, track and field games, bowling, billiard and pool games, laser tag, miniature golf, and rounds or games of golf;
F. Any motion picture film projection and motion picture show;
G. Any amusement devices such as virtual reality games, video games, internet cafe games, pinball machines, and arcade games.

PERSON Any natural person, trustee, receiver, administrator, executor, conservator, assignee, trust in perpetuity, trust, estate, firm, co-partnership, joint venture, club, company, business trust, domestic or foreign corporation, association, syndicate, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise. Whenever the term "person" is used in any clause prescribing and imposing a penalty, the term as applied to associations shall mean the owners or part-owners thereof, and as applied to corporations, the officers thereof. (Ord. 75-383-13)

OWNER With respect to the owner of a place where an amusement is being held, any person with an ownership or leasehold interest in a building, structure, vehicle, boat, area or other place who presents, conducts or operates an amusement in such place or who allows, by agreement or otherwise, another person to present, conduct or operate an amusement in such place; (2) with respect to the owner of

an amusement, any person which has an ownership or leasehold interest in such amusement or any person who has a proprietary interest in the amusement so as to entitle such person to all or a portion of the proceeds, after payment of reasonable expenses, from the operation, conduct or presentation of such amusement, excluding proceeds from non-amusement services and from sales of tangible personal property.

OPERATOR Person who sells or resells a ticket or other license to an amusement for consideration or who, directly through an agreement or arrangement with another party, collects the charges paid for the sale or resale of a ticket or other license to an amusement. The term includes but is not limited to, persons engaged in the business of selling or reselling tickets or other licenses to amusements, whether online, in person, or otherwise. The term also includes persons engaged in the business of facilitating the sale or resale of tickets or other licenses to amusements, whether online in person, or otherwise. The term does not include banks, credit card companies, payment processors, or other persons whose involvement is limited to performing functions similar to those performed by such entities.

PATRON Person who acquires the privilege to enter, to witness, to view, or to participate in an amusement.

3-1-5-2: TAX IMPOSED

A Village amusement tax is hereby levied and imposed upon the patrons of any amusement within the Village. The tax shall be equal to a fixed percentage of the receipts from admission fees or other charges, exclusive of Federal and State taxes, as established in the Comprehensive Fee Schedule set forth in Chapter 15 of Title 1 of this code, paid to witness, view or participate in the amusement. The ultimate liability for payment of the tax shall be borne by the patron of the amusement. This tax shall be in addition to any other taxes.

This tax shall not apply to or be imposed upon those witnessing, viewing, or participating in any amusement:

A. Where the proceeds of which inure exclusively to the benefit of religious, charitable, tax-exempt, or education institutions or organizations, or not-for-profit entities duly qualified under the laws of the State of Illinois. (Ord. 92-1246-24)(Amd. Ord. 98-1550-12 eff. 4/13/98)(Amd. Ord. 98-156729, eff. 6/8/98)(Ord. Amd. 98-1614-76, eff. 12/14/98)

B. Where initiation fees and membership dues are paid to a health club, racquetball club, tennis club, or a similar club or organization when such club or organization is organized and operated on a membership basis and for the recreational purposes of its members and its members' guests, shall be exempt from the tax imposed in subsection A of this section. This exemption shall not be construed to apply to any fees paid or based upon, in any way whatsoever, a per-event or a per-admission basis.

C. Where admission fees are paid for an event put on by the Village of Lincolnshire.

3-1-5-3: PAYMENT AND COLLECTION OF TAX

The owner, manager, licensee, or operator of each amusement shall bear, jointly and severally, the duty to collect the tax from each patron. Every person required to collect the tax levied by this Section shall secure said tax from the patron at the time that he/she collects the admission fee. The amount of the tax shall be shown separately on each ticket of admission or invoice for a

license; provided, however, that such shall not be required on tickets of admission or invoices printed prior to the effective date of the tax herein imposed. The tax shall be paid to the person required to collect it as trustee for and on behalf of the Village.

3-1-5-4: ADMINISTRATION AND ENFORCEMENT

The Village Manager or his designated agent is designated as the administration and enforcement officer of the tax hereby imposed on behalf of the Village. It shall be the responsibility and duty of the Village Manager or his designated agent to collect all amounts due the Village from the owners, managers, licensees, and operators of amusements in the Village. A sworn monthly amusement admission tax return, on a calendar month basis, shall be filed by each owner, manager, licensee or operator of each amusement in the Village with the Village Manager or his designated agent, on forms prescribed by him, showing the gross receipts from the amusement and the number and value of admission fees collected. Said returns are to be filed within ten (10) days after the end of the month covered by said return, with the tax herein imposed due and owing as of the first day of the month following the month covered by said return.

Each return shall be accompanied by payment to the Village of all taxes due and owing for the month covered by the return, provided, however, that the person making said return may retain an amount of money equal to two and one-half percent (2 1/2%) of the tax due as compensation for services rendered in the collection and payment of such tax.

The Village Manager or his designated agent, may enter the premises of any amusement for the purposes of inspection and examination of its books and records for the proper administration of this Section, and for the enforcement of the collection of the tax hereby imposed. It is unlawful for any person to prevent, hinder or interfere with the Village Manager or his designated agent in the discharge of his duties hereunder. It shall be the duty of every owner, manager, licensee or operator to keep accurate and complete books and records, containing all information necessary for the collection of the tax herein imposed, to which the Village Manager or his designated agent shall at all times have full access, which records shall include a daily sheet showing; (a) the number of admission fees collected during the twenty-four (24) hour period, and (b) the actual amusement tax receipts collected for the date in question.

3-1-5-5: SUIT FOR COLLECTION; REVOCATION OF LICENSE

Whenever any person shall fail to pay any taxes herein provided, or when any owner, manager, licensee, or operator of an amusement entered, witnessed, or viewed in the Village shall fail to collect the tax hereby imposed from any person who has the ultimate liability for payment of the same, the Village Attorney shall, upon request of the Village Manager, bring or cause to be brought an action to enforce the payment and/or collection of said tax on behalf of the Village in any court of competent jurisdiction. If the Mayor, after a hearing, shall find that any amusement owner, manager, licensee, or operator has willfully evaded his responsibility to collect the tax imposed by this Section, the Mayor may suspend or revoke all Village licenses, included but not limited to any liquor license issued under this Code, held by such person. Said person shall have an opportunity to be heard at such hearing, to be held not less than five (5) days after notice is given of the time and place thereof, addressed to him at his last known place of business. Pending notice, hearing and finding, any license of which such person may be possessed may be temporarily suspended by the Mayor. Any suspension or conviction resulting from such hearing shall not relieve or discharge any civil liability for nonpayment of the tax due.

3-1-5-6: INTEREST AND PENALTIES

In the event of failure by any amusement owner, manager, licensee, or operator to collect and pay to the Village Treasurer the tax required hereunder within ten (10) days after the same shall

be due, such tax shall be considered delinquent and be subject to the accrual of interest and assessment of penalties as provided for in this Chapter. (Amd. Ord. 07-3004-32, eff. 10/8/07)

3-1-5-7: DISPOSITION OF PROCEEDS OF TAX

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

3-1-5-8: PENALTY FOR VIOLATION

In addition, any person found liable of violating, disobeying, omitting, neglecting, or refusing to comply with or resisting or opposing the enforcement of any provision of this Section, shall be subject to the fine set forth in the Comprehensive Fine Schedule of the Code described in 17-1. (Ord. 10-3131-08, eff. 3/22/10) (Ord. 23-3960-390, eff. 1/1/24)

3-1-6: REAL ESTATE (Including Beneficial Interests Therein) TRANSFER TAX

3-1-6-1: DEFINITIONS (Amd. Ord. 97-1533-57, eff. 10/13/97)

PERSON Any natural person, trustee, receiver, administrator, executor, conservator, assignee, trust in perpetuity, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, domestic or foreign corporation, association, syndicate, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise. Whenever the term Aperson@ is used in any clause prescribing and imposing a penalty, the term as applied to associations shall mean the owners or part-owners thereof, and as applied to corporations, the officers thereof.

RECORDATION The recording of documents transferring applicable interests with the office of the Recorder of Deeds of Lake County, Illinois.

VALUE The amount of the full actual consideration for any transfer covered hereunder, including the amount of any mortgage or lien or liens assumed by the grantee or purchaser or any mortgage or lien or liens which the real estate is taken subject.

3-1-6-2: TAX IMPOSED

A tax is hereby imposed on the privilege of transferring certain interests in real estate in the Village. For purposes of this tax, transfer shall include the execution and delivery of the following:

1. Deed;
2. Assignment of Title or other beneficial interest;
3. A lease or similar contract for a term of more than thirty-five (35) years;
4. Article of Agreement to Convey Deed, or similar document, upon the future payment of money.

This tax shall apply to all such transfers of interests in property that is located within the Village and shall include, but not be limited to the following circumstances:

1. The transfer purports to vest either a beneficial interest in or legal title to the real estate;

2. The interest transferred is only the possession or use of the real estate so long as consideration is paid for the possession or use.

3. Even if the consideration is to be paid in the future, or the actual transfer is to be made in the future as under Articles of Agreement.

Except as otherwise provided in Section 3-1-6-3, the tax shall be at the rate as established in the Comprehensive Fee Schedule set forth in Chapter 15 of Title 1 of this Code, as consideration paid for the transfer. If the real estate is transferred subject to a mortgage or similar lien or an existing mortgage is to be assumed by the transferee, the outstanding balance of the mortgage shall be added to any other consideration paid for the real estate interest. The ultimate incidence of and liability for payment of this tax shall be borne by the transferee. This tax shall be in addition to any and all other taxes. (Ord. And. 97-1533-57, eff. 10/13/97) (Ord. Amd. 98-1550-12, eff. 4/13/98)

3-1-6-3: LEASEHOLD INTERESTS

Leasehold interests shall be taxed as follows:

1. Upon the execution of a lease, the tax shall be paid on the present value of the net lease amount, excluding tax and utility payments, that is payable over the term of the Lease. Present value shall be figured using the interest rate paid on U.S. Treasury bills on the date of execution of the lease.

2. If the entire lease amount is paid in a lump sum, then the tax shall be figured on the lump sum.

3. If the transaction involves the transfer of an existing leasehold interest, then the tax shall be figured on the value of the consideration paid for the transfer.

3-1-6-4: EXEMPTED TRANSACTIONS

The following transactions shall be exempt from the provisions of the tax imposed in Section 3-1-6-2 hereof; provided, however, that each such transaction is accompanied by a statement or certificate setting forth the facts upon which the exemption is based:

A. Conveyances representing real estate transfers made before September 20, 1975 but recorded after that date.

B. Conveyances of property acquired by any governmental body or conveyances of property between government bodies, or by or from any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes.

C. Conveyances which solely secure a debt or other obligation and do not purport to make any present transfer of any interest.

D. Conveyances, which, without additional consideration, confirm, correct, modify, or supplement a conveyance previously recorded.

E. Conveyances where the actual consideration is less than one thousand dollars ($1,000.00).

F. Tax Conveyances.

G. Conveyances of release of property which is security for a debt or other obligation.

H. Conveyances of partition.

I. Leasehold interests of a lessee occupying the premises as a residence.

J. Any leasehold interest the term of which is less than thirty-five (35) years.

3-1-6-5: STATEMENT OF CONSIDERATION, FILING

A. File With Village Treasurer: A signed copy of the statement of consideration filed pursuant to section 3 of the Real Estate Transfer Act of the State of Illinois shall be filed with the Village Treasurer by the grantee of any deed or assignment of beneficial interest within ten (1O) days after delivery of the deed or assignment of beneficial interest, or at the time of payment of the tax herein levied or imposed, whichever first occurs.

It shall be the duty of any licensed real estate agent acting as broker or agent for the sale of any real estate in the Village to file within ten (10) days after the delivery of the deed or the assignment of beneficial interest a signed copy of said statement of consideration, as provided in section 3 of the Real Estate Transfer Act of the State of Illinois[1] with the Village Treasurer. All information contained in statements filed under this Section is confidential.

B. Certificate of Payment, Water and Sewer Charges: Upon application, the Public Works Department shall issue a certificate of payment to the Finance Department which shall certify that all water and sewer charges have been paid in full. (Ord. 84-803-17)

C. Certificate as to Code Violations: Upon application, the Building Commissioner shall issue a certificate as to whether the property in question has any code violations. If a code violation exists, the transfer tax stamps shall not be issued for the property until the violation(s) have been remedied and the Building Commissioner issues a certificate showing no outstanding code violations. (Ord. 88-971-03)

3-1-6-6: TRANSFERS IN TRUST

No trustee of real estate shall accept an assignment of beneficial interest in real estate located in the Village without first obtaining a statement of consideration from the assignor and assignee and unless revenue stamps in the required amount, as set forth in Section 3-1-6-2, have been affixed to the assignment.

3-1-6-7: ENFORCEMENT

A. Lien Created: In the event a deed is filed for recordation conveying real estate within the corporate limits of the Village without the revenue stamps provided by this Section, a lien is declared against said real estate conveyed in the amount of the tax. The fact that the deed does not contain a Lincolnshire revenue stamp in an amount equal to three hundred percent (300%) of the amount of the State transfer tax shall constitute constructive notice of the lien. In addition, the Village Clerk may record a lien for the nonpayment of the tax provided for herein. The lien may be enforced by proceedings to foreclose, as in cases of mortgages or mechanics liens. Suit to foreclose this lien must be commenced within three (3) years after the date of

[1] 35 ILCS 305/1

recording the deed. Nothing herein shall be construed as preventing the Village from bringing a civil action to collect the tax imposed in this Section from any person who has the ultimate liability for payment of the same, including interest and penalties as herein below provided. (Amd. Ord. 07-3004-32, eff. 10/8/07).

B. Suit for Collection: Whenever any person shall fail to pay any taxes herein provided, the Village Attorney shall, upon request of the Village Manager, bring or cause to be brought an action to enforce the payment of said tax, including interest and penalties as herein below provided, on behalf of the Village in any court of competent jurisdiction.

C. Interest and Penalties: In the event of failure by any person to collect and pay to the Village Treasurer the tax required hereunder when the same shall be due, such tax shall be considered delinquent and be subject to the accrual of interest and assessment of penalties as provided for in this Chapter. (Amd. Ord. 07-3004-32, eff. 10/8/07)

3-1-6-8: DISPOSITION OF PROCEEDS OF TAX

All proceeds resulting from the imposition of the tax under this Section, including interest and penalties, shall be paid into the Treasury of the Village and shall be credited to and deposited to the general fund of the Village.

3-1-6-9: PENALTY FOR VIOLATION

In addition, any person found guilty in a court of competent jurisdiction of violating, disobeying, omitting, neglecting, or refusing to comply with or resisting or opposing the enforcement of any provision of this Section, upon conviction thereof, shall be subject to the fine set forth in the Comprehensive Fine Schedule of the Code described in 17-1. (Ord. 10-3131-08, eff. 3/22/10)

3-1-7: USE TAX

A. Tax Imposed: A tax is hereby imposed in accordance with the provisions of section 8-11-6 of the Illinois Municipal Code upon the privilege of using in the Village any item of tangible personal property which is purchased outside Illinois at retail from a retailer, and which is titled or registered with an agency of Illinois government. The tax shall be as established in the Comprehensive Fee Schedule set forth in Chapter 15 of Title 1 of this Code of such tangible property with selling price to have the meaning as defined in the Use Tax Act, approved July 14, 1955. (Amd. Ord. 98-1550-12, eff. 4/13/98)

B. Payment: Such tax shall be collected by the Illinois Department of Revenue for all municipalities imposing the tax and shall be paid before the title or certificate of registration for the personal property is issued. (Ord. 74-362-38)

3-1-8: MUNICIPAL REPLACEMENT VEHICLE TAX:

A. Tax Imposed: A tax is hereby imposed upon each vehicle, as defined in section 1-146 of the Illinois Vehicle Code,[1] purchased in this Village by or on behalf of an insurance company, to replace a vehicle to an insured person in settlement of a total loss claim. The tax shall be as established in the Comprehensive Fee Schedule set forth in Chapter 15 of Title 1 of this Code per vehicle purchased.

B. File Report: Every such insurance company that purchases a replacement vehicle, as defined

[1] 625 ILCS

herein, shall complete and file with the Illinois Department of Revenue a replacement vehicle certificate (Form RVT-7).

C. Payment: At the time such report is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed. (Ord. 84-788-02)

3-1-9: LOCALLY IMPOSED AND ADMINISTERED TAX RIGHTS AND RESPONSIBILITY

3-1-9-1: SCOPE

The provisions of this Section 9 shall apply to the Village's procedures in connection with all of the Village's locally imposed and administered taxes.

3-1-9-2: DEFINITIONS

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

ACT A Local Government Taxpayers' Bill of Rights Act.

CORPORATE AUTHORITIES Village's Mayor and Board of Trustees.

LOCALLY IMPOSED AND ADMINISTERED TAX Each tax imposed by the Village that is collected or administered by the Village and 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.

LOCAL TAX ADMINISTRATOR Village's Finance Director 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 Section 9 to give full effect to this ordinance. The exercise of such authority by the local tax administrator shall not be inconsistent with this Section 9 or the Act.

VILLAGE Village of Lincolnshire, Illinois.

NOTICE 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 Each ordinance adopted by the Village that imposes any locally imposed and administered tax.

TAXPAYER 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.

3-1-9-3: 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

3-1-9-4: 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.

3-1-9-5: PAYMENT

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

A. First, to the tax due for the applicable period;

B. Second, to the interest due for the applicable period; and

C. Third, to the penalty for the applicable period.

3-1-9-6: CERTAIN CREDITS AND REFUNDS

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

B. The statute of limitations on a claim for credit or refund shall be 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:

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

    a. The name of the locally imposed and administered tax subject to the claim;

    b. The tax period for the locally imposed and administered tax subject to the claim;

    c. The date of the tax payment subject to the claim and the cancelled check or receipt for the payment;

d. The taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and

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

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

a. Grant the claim; or

b. Deny the claim, in whole or in part, together with a statement as to the reason for the denial or the partial grant and denial.

3. In the event the local tax administrator grants, in whole or in part, a claim for refund or credit, the amount of the grant for refund or credit shall bear simple interest at the rate set forth in Section 3-1-9-10 from the date of the overpayment to the date of mailing of a refund check or the grant of a credit. (Amd. Ord. 07-3004-32, eff. 10/8/07)

3-1-9-7: AUDIT PROCEDURE

Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this Section 9.

A. Each notice of audit shall contain the following information:

1. The tax;

2. The time period of the audit; and

3. A brief description of the books and records to be made available for the auditor.

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

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

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

E. It is the duty and responsibility of every taxpayer to make available its books and records for inspection by the Village. If the taxpayer or tax collector fails to provide the documents

necessary for audit within the time provided, the local tax administrator may issue a tax determination 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.

3-1-9-8: APPEAL:

A. The local tax administrator shall send written notice to a taxpayer upon the local tax administrator's issuance of a determination of tax liability pursuant to the Act. The notice shall include the following information:

1. the reason for the assessment;

2. the amount of the tax liability proposed;

3. the procedure for appealing the assessment; and

4. the obligations of the 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.

3-1-9-9:HEARING:

A. Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under section nine, above, the local tax administrator shall conduct a hearing regarding any appeal.

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

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

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

3-1-9-10: INTEREST AND PENALTIES: In the event a determination has been made that a tax is due and owing, through the application of any ordinance, audit, assessment or any bill or invoice sent, the tax must be paid within the time frame so indicated in that ordinance, audit, assessment, bill or invoice (Amd. Ord. 07-3004-32, eff. 10/8/07).

A. Interest. Simple interest shall accrue daily on a late payment, underpayment, or nonpayment of the tax, at a rate equal to one percent (1%) per annum, based on a year of 365 days and the number of days elapsed.. (Amd. Ord. 07-3004-32, eff. 10/8/07).

B. Late Filing and Payment Penalties. If a tax return is not filed within the time and manner provided by the controlling tax ordinance, a late filing penalty of five percent (5%) of the amount of tax required to be shown as due on a return shall be imposed; and a late payment penalty of five percent (5%) of the tax due shall be imposed. If no return is filed within the time or manner provided by the controlling tax ordinance and prior to the 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.

3-1-9-11: 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.

3-1-9-12: 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.

3-1-9-13: 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 4 years maximum after the end of the calendar year for which the return for the applicable period was filed or for the calendar year in which the return for the applicable period was due, whichever occurs later.

B. If any tax return is not filed or if during any 4-year period for which a notice of tax determination or assessment may be issued by the Village, and 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.

3-1-9-14: 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.

3-1-9-15: LIENS: The local tax administrator shall establish an internal review procedure regarding any liens filed against any taxpayers for unpaid taxes. Upon a determination by the local tax administrator that the lien is valid, the lien shall remain in full force and effect. If the lien is determined to be improper, the local tax administrator shall:

A. timely remove the lien at the Village's expense;

B. correct the taxpayer=s credit record; and

C. correct any public disclosure of the improperly imposed lien.

3-1-9-16: APPLICATION: This ordinance shall be liberally construed and administered to supplement all of the Village's tax ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with this Section 9, this Section 9 shall be controlling.

3-1-9-17: SEVERABILITY: If any section, paragraph or provision of this Section 9 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 Section 9. (Ord. 00-1741-49, eff. 12/11/00)

3-1-10: HOME RULE MUNICIPAL RETAILER=S OCCUPATION TAX:

A. Tax Imposed. On and after July 1, 2017, a tax is imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this State's government, at retail in the Village at the rate of 1.00% of the gross receipts from these sales made in the course of such business while this ordinance is in effect. This tax shall not be imposed on sales of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics. (Ord. 17-3437-165, eff. 7/1/17)

B. Title 3, Chapter 1 of the Municipal Code of the Village of Lincolnshire is hereby amended by replacing Section 3-1-11 as set forth below: (Ord. 17-3737-165, eff. 7/1/17)

C. 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 ordinance. (Ord. 10-3164-41, eff. 9/27/10)

3-1-11: HOME RULE MUNICIPAL SERVICE OCCUPATION TAX:

A. Tax Imposed. On and after July 1, 2017, a tax is imposed upon all persons engaged in the business of in the business of making sales of service at the rate of 1.00% of the selling price of all tangible personal property transferred by such servicemen either in the form of tangible personal property or in the form of real estate as an incident to a sale of service while this ordinance is in effect. This tax shall not be imposed on sales of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics. (Ord. 17-3737-165, eff. 7/1/17)

B. The tax described in paragraph A shall not be construed to be imposed upon the privilege of engaging in any business which under the Constitution of the United States may not be made the subject of taxation by the Village.

C. 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 ordinance. (Ord. 10-3164-41, eff. 9/27/10)

3-1-12: HOME RULE SALES TAX - ANNUAL REVIEW: For the purpose of determining whether to continue to levy the taxes described in Sections 3-1-10 and 3-1 11, the Mayor and Board of Trustees shall annually review and evaluate (i) the revenue derived from the taxes levied by this Ordinance, (ii) the general fund reserves, (iii) the capital improvements schedule and preliminary budget forecasts for the forthcoming year, and (iv) all other revenue sources available to the Village. Such evaluation shall occur each year between August 1 and September 15. (Ord. 10-3164-41, eff. 9/27/10)

3-1-13: FOOD AND BEVERAGE TAX: **(Effective 11/01/2017 – Ordinance #17-3752-180)**

3-1-13-1: DEFINITIONS. For the purposes of this Section, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this Section:

A. **Alcoholic Liquor**- Includes alcohol, spirits, wine, beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed as a beverage by a human being. "Alcoholic Liquor" does not include any liquid or solid containing one-half of one percent (.5%) of alcohol by volume or less, or to liquids or solids containing in excess of one-half of one percent (.5%) of alcohol by volume if dispensed by a licensed pharmacy pursuant to a medical prescription.

B. **Food**- Any and all solid, semi-solid, liquid, powder, or other item used or intended to be used for internal human consumption, whether simple, compound, or mixed. "Food" includes all nonalcoholic beverages.

C. **Owner**- Any person or entity of any kind that has any ownership in, or is conducting the business or operation of, a prepared food and beverage facility, including, without any limitation (a) any person, (b) any firm, partnership, association, company, joint venture, corporation, club, organization, or other

entity of any kind, and (c) any receiver, executor, trustee, conservator, or other representative appointed by law or by order of any court. The term "owner" includes one owner or multiple owners.

D. **Prepared for Immediate Consumption**- Food or alcoholic liquor prepared for or made readily available for immediate consumption within or upon the premises where it is sold or where such items may be purchased for consumption off the premises where it is sold, such as where such items are made available for carry-out, drive-through, delivery, or similar service.

E. **Prepared Food and Beverage Facility**- Any person or establishment which sells food or alcoholic liquor at retail for immediate consumption, whether or not such food or alcoholic liquor sales are conducted along with any other use(s) in a common premises or business establishment. A "prepared food and beverage facility" does not include coin operated automatic food item dispensing machines.

F. **Purchase at Retail**- To obtain for use or consumption in exchange for consideration, whether in the form of money, credits, barter, or in any other nature, and not for resale.

G. **Purchase Price**. The net amount paid by a person for the privilege of purchasing at retail any food or alcoholic liquor prepared for immediate consumption from a prepared food and beverage facility, exclusive of any applicable taxes.

3-1-13-2: IMPOSITION OF TAX; COLLECTION OF TAX

A. There is hereby levied and imposed upon the purchase at retail of food and alcoholic liquor prepared for immediate consumption at any prepared food and beverage facility within the Village of Lincolnshire a tax at a rate of one percent (1%) of the purchase price of such food or alcoholic liquor. The liability for payment of the tax shall be borne by the purchaser.

B. The tax herein levied shall be paid in addition to any and all other taxes and charges. The ultimate incidence of and liability for payment of said tax is to be borne by the person who seeks the privilege of purchasing at retail food or alcoholic liquor for immediate consumption from a prepared food and beverage facility and pays consideration in exchange for receiving such privilege.

C. It shall be the duty of the owner of each prepared food and beverage facility within the Village of Lincolnshire to collect and account for said tax from each purchaser of food or alcoholic liquor for immediate consumption at the time that the consideration for such purchase is paid, and to pay over to the Village said tax under procedures prescribed by the Village Finance Director, or as otherwise provided in this ordinance.

3-1-13-3: EXEMPTIONS

A. The privilege of engaging in the purchase at retail of food and alcoholic liquor prepared for immediate consumption from a prepared food and beverage facility owned by and operated solely by employees or volunteers of governmental bodies and not-for-profit entities shall be exempt from the assessment of the tax herein described.

B. For a prepared food and beverage facility to be exempt from the obligation to collect, report and remit the food and beverage tax to the Village, such facility must apply for an exemption certificate by submitting a request in writing to the Finance Director and such other information reasonably required by the Finance Director to determine whether the purchase at retail of food and alcoholic liquor prepared for immediate consumption from the applicant is exempt under 3-1-13-3(A).

C. An exemption certificate shall be valid for one (1) year and must be renewed annually.

3-1-13-4: ADMINISTRATION AND ENFORCEMENT

A. The Village Finance Director is hereby designated as the administration and enforcement officer of the tax hereby imposed on behalf of the Village. It shall be the responsibility and duty of the Village Finance Director to collect all amounts due the Village from the owners of each prepared food and beverage facility responsible for collecting and remitting the tax to the Village. A sworn monthly food and beverage tax return, on a calendar month basis, shall be filed by each owner of a prepared food and beverage facility with the Village Finance Director, on forms prescribed by him, showing all consideration paid in exchange for food and alcoholic beverages prepared for immediate consumption during the applicable month. The tax herein imposed shall be due and owing as of the first day of the second month following the month covered by said return (i.e. January taxes are due by March 1). Each return shall be accompanied by payment to the Village of all taxes due and owing for the month covered by the return; provided, however, that the owner may retain an amount of money equal to two and one-half percent (2 1/2%) of the tax due as compensation for services rendered in the collection and payment of such tax.

B. The Village Finance Director is authorized to conduct audits of prepared food and beverage establishments required to collect and remit the tax imposed by this Section as provided in Section 3-1-9-7 of this Code.

C. The Finance Director is authorized to issue reasonable rules and opinions regarding the interpretation and administration of this tax to ensure the proper application and enforcement thereof.

3-1-13-5: SUIT FOR REVOCATION; REVOCATION OF LICENSE

A. Whenever any person shall fail to pay any taxes herein provided, or when any owner of a prepared food and beverage facility shall fail to collect the tax hereby imposed from any person who has the ultimate liability for payment of the same, the Village Attorney shall, upon request of the Village Manager, bring or cause to be brought an action to enforce the payment of said tax on behalf of the Village in any court of competent jurisdiction.

B. If the Mayor, after a hearing, shall find that any owner of a prepared food and beverage facility has willfully evaded their responsibility to collect the tax imposed by this Section, the Mayor may suspend or revoke all Village licenses, included but not limited to any liquor license issued under this Code, held by such owner. Said owner shall have an opportunity to be heard at such hearing, to be held not less than seven (7) days after notice is given of the time and place thereof, addressed to him at his last known place of business. Pending notice, hearing and finding, any license of which such person may be possessed may be temporarily suspended by the Mayor. Any suspension or conviction resulting from such hearing shall not relieve or discharge any civil liability for nonpayment of the tax due. In the event of a conflict between the hearing procedures described in this Section and the Liquor Control Code, Title 3, Chapter 3 of the Village Code, the procedure granting the licensee greater due process shall prevail.

3-1-13-6: INTEREST AND PENALTIES

A. In the event of failure by any owner of a prepared food and beverage facility to collect and pay to the Village the tax required hereunder within ten (10) days after the same shall be due, such tax shall be considered delinquent and be subject to the accrual of interest and assessment of penalties as provided for in Section 3-1-9-10 of this Code.

B. In addition, any person found guilty in a court of competent jurisdiction of violating, disobeying, omitting, neglecting or refusing to comply with or resisting or opposing the enforcement of any provision of this Section, upon conviction thereof, shall be subject to the fine set forth in the Comprehensive Fine Schedule in Title 1, Chapter 17 of this Code.

3-1-13-7: DISPOSITION OF PROCEEDS OF TAX

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