

## CHAPTER 21

### TAXATION

ART. I	Fire Protection Tax, 21-1-1 – 21-1-2
ART. II	Foreign Fire Insurance Company Tax, 21-2-1 – 21-2-5
ART. III	Municipal Retailers' Occupation Tax, 21-3-1 – 21-3-3
ART. IV.	Municipal Service Occupation Tax, 21-4-1 – 21-4-3
ART. V.	Police Protection Tax, 21-5-1 – 21-5-2
ART. VI.	Hotel/Motel Tax 21-6-1 – 21-6-11
ART. VII	Real Estate Tax Abatement 21-7-1 – 21-7-3
ART. VIII	Non-Home Rule Municipal Retailers' Occupation Tax and Non-Home Rule Municipal Service Occupation Tax 21-8-1 – 21-8-3
ART. IX	Simplified Municipal Telecommunications Tax 21-9-1 – 21-9-6

#### ARTICLE I. FIRE PROTECTION TAX

21-1-1. Tax imposed. A tax is hereby imposed on all taxable property in this city at the rate of .15% of the value, as equalized or assessed by the Department of Local Government Affairs, of all taxable property within the city to provide revenue for the purpose of fire protection in the city in accordance with the provisions of Chapter 24, Section 11-7-1 of the Illinois Revised Statutes.

21-1-2. Tax in addition to other general purpose taxes. This tax shall be in addition to and in excess of all taxes authorized by law to be levied and collected in this city and shall be in addition to and in excess of the amount authorized to be levied for general purposes as provided by Chapter 24, Section 8-3-1 of the Illinois Revised Statutes.

#### ARTICLE II. FOREIGN FIRE INSURANCE COMPANY TAX

21-2-1. Tax imposed. All corporations, companies or associations, not incorporated under the laws of this state, engaged in effecting fire insurance in the city, shall pay into the city treasury the sum of 2% of the amount of all premiums which, during the year ending on every first day of July, shall have been received, or shall have been agreed to be paid, for any insurance effected, or agreed to be effected on property within the city, by or with any such corporation, company or

association. Such rates, when collected, shall be set apart for the support and maintenance of the Fire Department of the city.

21-2-2. Premium accounting. Every person who acts as the agent or representative of any corporation, company or association, shall, on or before the 15<sup>th</sup> day of July in each year, render to the City Clerk a full and true account, verified by his oath, of all premiums which, during the year ending on the 1<sup>st</sup> day of July preceding such report, were received by him, or any other person for him, or were agreed to be paid for, or in behalf of any such corporation, company or association on property located in the city. At the time of rendering such account, such agent shall pay to the City Treasurer the amount for which the corporation, company or association represented by him, may be chargeable by virtue of this article.

21-2-3. Collection of unpaid taxes. Any unpaid taxes under this article may be recovered of any such corporation, company or association, or its agent, by a suit in the name and for the use of the city, as for money had and received for its use, in any court of competent jurisdiction.

21-2-4. Fund for Fire Department. The City Treasurer shall set apart the funds collected from foreign fire insurance companies in a separate fund from which this money shall be paid out upon the order of the Fire Department for the maintenance, use and benefit of the Fire Department.

21-2-5. Unlawful to transact business. If the premium accounting provided for in Section 21-2-2 is not rendered on or before July 15, or if the tax remains unpaid after that date, it shall be unlawful for any such corporation, company or association to transact any business of fire insurance in the city until the accounting required hereunder has been made and the taxes due have been fully paid. This provision shall in no way affect the validity of any risk that may be taken in violation hereof, between such corporation, company or association, and the person so insured.

### ARTICLE III. MUNICIPAL RETAILERS' OCCUPATION TAX

21-3-1. Tax imposed. A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property at retail in this city at the rate of 1% of the gross receipts from such sales made in the course of such business while this article is in effect, in accordance with the provisions of Chapter 24, Section 8-11-1 of the Illinois Revised Statutes.

21-3-2. Filing of monthly report. (a) Every such person engaged in such business in the city shall file on or before the last day of each calendar month, the report to the State Department of Revenue required by Section 3 of "An Act in

relation to a Tax Upon Persons Engaged in the Business of Selling Tangible Property to Purchasers for Use or Consumption” approved June 28, 1933, as amended.

(b) 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 month.

21-3-3. Transmittal of ordinance to Department of Revenue. The City Clerk is hereby directed to transmit to the Department of Revenue of the State of Illinois not later than five days after the effective date of this article, a certified copy of this article.

#### ARTICLE IV. MUNICIPAL SERVICE OCCUPATION TAX

21-4-1. Tax imposed. A tax is hereby imposed upon all persons engaged in this city in the business of making sales of service at the rate of 1% of the cost prices 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 the sale of service, in accordance with the provisions of Chapter 24, Section 8-11-5 of the Illinois Revised Statutes.

21-4-2. Filing of monthly report. (a) Every supplier of servicemen required to account for municipal service occupation tax for the benefit of this city shall file, on or before the last day of each calendar month, the report to the State Department of Revenue required by Section 9 of the “Municipal Service Occupation Tax Act”, approved July 30, 1961, as amended.

(b) At the time of such report is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed.

21-4-3. Transmittal of ordinance to Department of Revenue. The City Clerk is hereby directed to transmit to the Department of Revenue of the State of Illinois not later than five days after the effective date of this article, a certified copy of this article.

#### ARTICLE V. POLICE PROTECTION TAX

21-5-1. Tax imposed. A tax is hereby imposed upon all taxable property within the city at the rate of .075% of the value, as equalized or assessed by the Department of Local Government Affairs, of all taxable property in the city to provide revenue for the purpose of police protection in this city in accordance with the provisions of Chapter 24, Section 11-1-3 of the Illinois Revised Statutes.

21-5-2. Tax in addition to other general purpose taxes. This tax shall be in addition to and in excess of all taxes authorized by law to be levied and collected in this city and shall be in addition to and in excess of the amount authorized to be levied for general purposes as provided by Chapter 24, Section 8-3-1 of the Illinois Revised Statutes.

## ARTICLE VI. HOTEL/MOTEL TAX

21-6-1. Title. This ordinance shall be referred to as the City Hotel/Motel Tax and the tax herein imposed shall be in addition to all other occupation or privilege taxes imposed by the State of Illinois.

21-6-2. Definitions. As used in this ordinance, unless the context otherwise requires:

- (a) “Hotel” means any building or buildings in which the public may, for a consideration, obtain living quarters, sleeping or housekeeping accommodations. The term includes inns, motels, tourist homes or courts, lodging house, rooming houses and apartment houses.
- (b) “Operator” means any person operating a hotel.
- (c) “Occupancy” means the use or possession, or the right to the use or possession, of any room or rooms in a hotel for any purpose, or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room or rooms.
- (d) “Room” or “rooms” means any living quarters, sleeping or housekeeping accommodations.
- (e) “Permanent resident” means any person who occupied or has the right to occupy any room or rooms in a hotel for at least 30 consecutive days.
- (f) “Rent” or “rental” means the consideration received for occupancy, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature.
- (g) “City” means the City of Arcola, Douglas County, Illinois.
- (h) “Person” means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, or a receiver, executor, trustee, guardian or other representative appointed by order of any court.

21-6-3. Tax imposed. A tax is imposed upon persons engaged in the renting, leasing or letting rooms in a hotel in the City at the rate of 5% of the gross rental receipts from such renting, leasing, or letting, excluding, however, from gross rental receipts, the proceeds of such renting, leasing or letting of permanent residents of that hotel. Persons subject to said tax may reimburse themselves for their tax liability for such tax separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax imposed under “The Hotel Operators’ Occupation Tax Act.

(Ordinance No. 07-C-1 amended March 19, 2007)

21-6-4. Use of Tax Funds by City. The amounts collected by City pursuant to this article shall be expended by the City solely to promote tourism and conventions within the City or otherwise to attract nonresident overnight visitors to the City. No funds received pursuant to this article shall be used to advertise for or otherwise promote new competition in the hotel/motel business.

21-6-5. Exemptions. Nothing in this article shall be construed to authorize the City to impose a tax 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 State of Illinois.

Persons engaged in the business of renting, leasing or letting rooms in a hotel only to permanent residents are exempt from the provisions of this article.

21-6-6. Books and Records. Every operator shall keep separate books or records of his business as an operator so as to show the rents and occupancies taxable under this article separately from his transactions not taxable hereunder. If any such operator fails to keep such separate books or records he shall be liable to tax at the rate designated in Section 21-6-3 of this article upon the entire proceeds from his hotel.

21-6-7. Return of Taxpayer-Payment of Tax. Except as provided hereinafter in this section, on or before the last day of each calendar month, every person engaged in the business of renting, leasing or letting rooms in a hotel in this City during the preceding calendar month shall file a return with the City Clerk of the City of Arcola, stating:

(a) The name of the operator;

(b) His residence address and the address of his principal place of business and the address of the principal place of business (if that is a different address) from which he engages in the business of renting, leasing or letting rooms in a hotel in this City;

(c) Total amount of rental receipts received by him during the preceding calendar month from renting, leasing or letting rooms during such preceding calendar month;

(d) Total amount of rental receipts received by him during the preceding calendar month from renting, leasing or letting rooms to permanent residents during such preceding calendar month;

(e) Total amount of other exclusions from gross rental receipts allowed by this article;

(f) Gross rental receipts which were received by him during the preceding calendar month and upon the basis of which the tax is imposed;

(g) The amount of tax due;

(h) The amount of penalty due, if any;

(i) Such other reasonable information as the City may require.

If the Illinois Department of Revenue has authorized the operator to file returns on a quarter annual basis or annual basis as provided for in Section 6 of "The Hotel Operators' Occupation Tax Act" (Illinois Revised Statutes, 1989, Ch. 120, par.481 b. 36) the operator may file returns and pay tax liability to the City of Arcola at the same time that he is required to file his returns and pay his tax liability to the State of Illinois.

Such quarter annual and annual returns, as to form and substance, shall be subject to the same requirements as monthly returns.

Notwithstanding any other provision in this article concerning the time within which an operator may file his return, in the case of any operator who ceases to engage in a kind of business which makes him responsible for filing returns under this article, such operator shall file a final return under this article with the City Clerk not more than one month after discontinuing such business.

Where the same person has more than one hotel located within the City, such person shall file separate returns for each such hotel.

In his return, the operator shall determine the value of any consideration other than money received by him in connection with the renting, leasing or letting of rooms in the course of his business and he shall include such value in his return.

Such determination shall be subject to review and revision by the City in the manner hereinafter provided for the correction of returns.

Where the operator is a corporation, the return filed on behalf of such corporation shall be signed by the president, vice-president, secretary or treasurer or by the properly accredited agent of such corporation.

The person filing the return herein provided for shall, at the time of filing such return, pay to the City Clerk the amount of tax herein imposed. All moneys received by the City Clerk for taxes herein imposed shall be promptly deposited in a separate account designated as Arcola Tourism Fund.

The City may, upon separate written notice to a taxpayer, require the taxpayer to prepare and file with the City Clerk on a form prescribed by the City within not less than 60 days after receipt of the notice an annual information return for the tax year specified in the notice. Such annual return to the City shall include a statement of gross receipts as shown by the operator's last State income tax return. If the total receipts of the business as reported in the State income tax return do not agree with the gross receipts reported to the City for the same period, the operator shall attach to his annual information return a schedule showing a reconciliation of the two amounts and the reasons for the difference. The operator's annual information return to the City shall also include any additional reasonable information which the City deems would be helpful in determining the accuracy of the monthly, quarterly or annual tax returns by such operator as hereinbefore provided for in this section.

If the annual information return required by this section is not filed when and as required, the taxpayer shall be liable for a penalty equal to 1% of the tax due from such taxpayer under this article during the period to be covered by the annual return for each month or fraction of a month until such return is filed as required with the penalty to be assessed and collected in the same manner as any other penalty provided for in this article.

If the monthly, quarter annual, or annual tax return and payment of tax is not filed and paid when due, the taxpayer shall be liable for a penalty equal to 1 ½% per month or a fraction thereof of the delinquent tax then due from the taxpayer until such return is filed and tax paid with the penalty to be assessed and collected in the same manner as any other penalty provided for in this article.

The chief executive officer, proprietor, owner or highest ranking manager shall sign the annual return to certify the accuracy of the information contained therein. Any person who willfully signs the annual return containing false or inaccurate information shall be guilty of perjury and punished accordingly. The

annual return form prescribed by the City shall include a warning that the person signing the return may be liable for perjury.

The foregoing portion of this section concerning the filing of an annual information return shall not apply to an operator who is not required to file an income tax return with the United States Government.

21-6-8. Tax Collection—Enforcement. The corporate authorities of the City shall have all powers necessary to enforce the collection of the tax imposed and collected by the City pursuant to this article including but not limited to subpoena power and the power to create and enforce liens. No such lien shall affect the rights of bona fide purchasers, mortgages, judgment creditors or other lienholders who acquire their interests in such property prior to the time a notice of such lien is placed on record in the office of the Recorder of Deeds of Douglas County. Any such lien placed of record shall only act as a lien upon property located within the corporate boundaries of the City. In creating a lien pursuant to this section, the procedures for its notice and enforcement shall be the same as those provided for in the Retailer' Occupation Tax Act, as now or hereafter amended, for State tax liens, and the Recorder of Deeds with whom a notice of such lien is filed shall treat such lien as a State tax lien for recording purposes.

21-6-9. Creation of City of Arcola Tourism Committee. Concurrent with the adoption of this article, there is created a City of Arcola Tourism Committee to oversee and approve the administration and expenditure of taxes imposed pursuant to this article. The committee shall consist of five members to be appointed by the Mayor of the City of Arcola with the approval of the Arcola City Council. The committee shall be constituted as follows: at least one member shall be a representative of the Arcola Chamber of Commerce, one member shall be a member of the Arcola City Council, and the remaining members shall be owners or operators of retail businesses in the City of Arcola. The term for each member shall be for one year and shall commence on June 1 of each year. The Mayor may remove any committee person appointed upon written notice.

(Ordinance No. 13-C-3, amended May 6, 2013)

The committee shall meet periodically during the year at times set by the committee. The committee shall elect from its members a chairperson, vice-chairperson, and secretary. The chairperson shall be responsible for presiding over the meetings. In absence of the chairperson, the vice-chairperson shall preside. The secretary shall be responsible for keeping and maintaining the minutes of the committee meetings.

All meetings of the committee shall be open to the general public and a notice of each meeting shall be given by publishing a notice of the date, place, and



time of the meeting in the Arcola Record-Herald at least seven days but not more than 14 days prior to the date of the meeting which notice shall state the general purpose of the meeting and that it is open to the general public. A majority of the committee shall constitute a quorum.

The committee shall determine how funds collected pursuant to this article shall be expended provided that such expenditures shall be limited to promoting tourism and conventions within the City of Arcola or otherwise attracting nonresident overnight visitors to the City. No funds shall be used to advertise for or otherwise promote new competition in the hotel/motel business.

Notwithstanding the foregoing, the committee shall discourage any person, persons, or entity from incurring an expense for which that person, persons, or entity will seek reimbursement for from the funds collected pursuant to this article without seeking approval in advance from the committee; said expenditures incurred without prior approval should rarely be reimbursed.

Also notwithstanding the foregoing, the committee should rarely recommend reimbursement to a person, persons, or entity from the funds collected pursuant to this article for advertising that promotes and/or features a particular hotel, motel, inn, or bed and breakfast in the City such that a reasonable person would believe the advertising's primary goal was to promote a particular hotel, motel, inn, or bed and breakfast.

Also notwithstanding the foregoing, the committee should rarely recommend reimbursement to a person, persons, or entity from the funds collected pursuant to this article for expenses incurred by the person, persons, or entity when the person, persons, or entity is currently delinquent in the filing of a return pursuant to this article, delinquent in paying the tax owed pursuant to this article, otherwise in violation of this article, or has a habit or pattern of being habitually late or delinquent in the filing of a return pursuant to this article, paying the tax owed pursuant to this Article, or otherwise violating this article.

All expenditures authorized by the committee shall only be approved at a duly called meeting with a published notice to the general public as heretofore provided, and then by a vote of a majority of the members of the committee.

The committee shall report on or before the first Monday in February of each year to the City Council of the City of Arcola. Such report shall be in writing and shall specify the purposes for which the disbursements were made during the prior calendar year and shall also contain an itemized statement of all receipts and disbursements made during the prior calendar year.

(Ordinance 10-C-9, amended November 16, 2010)

21-6-10. Penalties. Any person, firm or corporation violating any provision of this article shall be fined not less than \$25 nor more than \$500 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

21-6-11. Severability of Provisions. Should any provision of this article be declared to be invalid by a court of competent jurisdiction, such invalid provision shall not affect the validity of the remaining provisions of this article and the provisions hereof shall be considered, and are hereby declared, to be severable.

(Ordinance No.90-C-4 amended September 27, 1990)

## ARTICLE VII. REAL ESTATE TAX ABATEMENT

21-7-1. Eligible Firms. Any commercial or industrial firm from another state, territory, or country of which has been newly created within the State of Illinois, and which locates within the City of Arcola, or any commercial or industrial firm which is currently located within the City of Arcola and which expands its existing facility shall be eligible to receive abatement of its real estate taxes payable to the City of Arcola as hereinafter provided for.

21-7-2. Abatement. Eligible commercial or industrial firms shall be entitled to receive property tax abatement of 100% of the taxes payable to the City of Arcola which result from the increased assessment of the real estate owned by the eligible commercial or industrial firm which increased assessment results directly from the expansion or new construction within the City of Arcola. The abatement shall be for a period not to exceed 10 years and shall be limited to an amount so that the total aggregate of all real estate taxes abated by the City of Arcola under this article shall not exceed One Million Dollars.

21-7-3. Determination by City Council. The City Council of the City of Arcola upon a majority vote, may, after the determination of its assessed valuation, order the Douglas County Clerk to abate 100% of the real estate taxes of any eligible commercial or industrial firm for a period of up to 10 years.

(Ordinance No. 91-C-1 amended January 21, 1991)

## Article VIII. NON-HOME RULE MUNICIPAL RETAILERS' OCCUPATION TAX AND NON-HOME RULE MUNICIPAL SERVICE OCCUPATION TAX

21-8-1. Imposition of Non-Home Rule Municipal Retailers' Occupation Tax and Non-Home Rule Municipal Service Occupation Tax. 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 and registered with

an agency of this State's government, at retail in this municipality at the rate of ½ of 1% of the gross receipts from such sales made in the course of such business while this ordinance is in effect; and a tax is hereby imposed upon all persons engaged in this municipality in the business of making sales of service, at the rate of ½ of 1% of the selling price of all tangible personal property transferred by such serviceman as an incident to a sale of service. Such "Non-Home Rule Municipal Retailers' Occupation Tax" and the "Non-Home Rule Municipal Service Occupation Tax" shall not be applicable to the 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 non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics.

The imposition of these non-home rule taxes is in accordance with the provisions of Sections 8-11-1.3 and 8-11-1.4, respectively, of the "Illinois Municipal Code" (65 ILCS 5/8-11-1.3 and 5/8-11-1.4).

21-8-2. Collection and Enforcement of Taxes. The taxes 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.

21-8-3. City Clerk Directed to File Certified Copy of Ordinance. The City Clerk is hereby directed to file a certified copy of this ordinance and a certification that the ordinance received referendum approval with the Illinois Department of Revenue on or before the first day of October, 2001.

(Ordinance 01-C-5 amended August 06, 2001)

## ARTICLE IX. SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX

### 21-9-1. Definitions.

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

(a) "Amount paid" means the amount charged to the taxpayer's service address in 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 this municipality and charges for the portion of the inter-office channels provided within this municipality. Charges for that portion of the inter-office channel connecting two (2) or more channel termination points, one or more of which is located within the jurisdictional boundary of this 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 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 reasonable 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 of 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 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.

21-9-2. Simplified municipal telecommunications tax imposed.

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

(a) The act or privilege of originating in the municipality or receiving in the municipality intrastate telecommunications by a person at a rate of 5% of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-municipal taxation of the act or privilege that is subject to taxation under this subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another municipality on that event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of the tax properly due and paid in the municipality that was not previously allowed as a credit against any other municipal tax.

(b) The act or privilege of originating in the municipality or receiving in the municipality interstate telecommunications by a person at a rate of 5% 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 another 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.

21-9-3. 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.

#### 21-9-4>Returns to Department.

On or before the last day of August, 2015, and 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 636/5-50) and any accompanying rules and regulations created by the Department to implement the Act.

#### 21-9-5.Resellers.

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

(b) Upon approval of the application, the Department shall assign a resale number to the applicant and shall certify such number to the applicant. The Department may cancel any number which is obtained through misrepresentation, or which is used to send or receive such 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.

#### 21-9-6.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.

(Ordinance No. 15-C-1, Article IX added March 02, 2015)