

Chapter 74

TAXATION*

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***Cross references**—Any ordinance or resolution promising or guaranteeing the payment of money for the village, or authorizing the issuance of any bonds of the village or any evidence of the village's indebtedness or any contract or obligation assumed by the village saved from repeal, § 1-19(a)(2); any appropriation ordinance saved from repeal, § 1-19(a)(5); any ordinance providing for local improvements and assessing taxes for such improvements saved from repeal, § 1-19(a)(9); administration, ch. 2; finances, § 2-441 et seq.; businesses, ch. 22.

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ARTICLE I. IN GENERAL

Secs. 74-1—74-30. Reserved.

**ARTICLE II. HOME RULE MUNICIPAL
RETAILER'S OCCUPATION TAX**

Sec. 74-31. Home Rule tax imposed.

A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this state's government, at retail in this municipality at the rate of one-half of one percent of the gross receipts from such sales made in the course of business while this section is in effect, in accordance with the provisions of section 8-11-1 of the Illinois Municipal Code (65 ILCS 5/8-11-1).

Such "Home Rule Municipal Retailers' Occupation Tax" shall not be applicable to the sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food which has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics.

(Code 1977, § 34.01(a)); Ord. No. 2000-114, § 1(34.01(d)), 9-18-00)

Sec. 74-32. Report.

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 3 of An Act in Relation to a Tax Upon Persons Engaged in the Business of Selling Tangible Personal Property to Purchasers for Use or Consumption, (35 ILCS 120/3) approved June 28, 1933, as amended.

(Code 1977, § 34.01(b))

Sec. 74-33. Payment of tax.

The department of revenue shall have full power to administer and enforce the provisions of this section, including all civil penalties assessed as an incident to the tax imposed.

(Code 1977, § 34.01(c); Ord. No. 2000-114, § 1(34.01(e)), 9-18-00)

Secs. 74-34—74-60. Reserved.

**ARTICLE III. HOME RULE MUNICIPAL
SERVICE OCCUPATION TAX**

Sec. 74-61. Home Rule tax imposed.

A tax is hereby imposed upon all persons engaged in this municipality in the business of making sales of service, at the rate of one-half of one percent of the selling price of all tangible personal property transferred by such serviceman as an incident to a sale of service, in accordance with the provisions of section 8-11-5 of the Illinois Municipal Code (65 ILCS 5/8-11-5).

Such "Home Rule Municipal Service Occupation Tax" shall not be applicable to the sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food which has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics.

(Code 1977, § 34.02(a); Ord. No. 2000-114, § 1(34.02(d)), 9-18-00)

Sec. 74-62. Report.

Every supplier or serviceman required to account for the municipal service occupation tax for the benefit of 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 nine of the Service Occupation Tax Act. (35 ILCS 115/9) approved July 10, 1961, as amended.

(Code 1977, § 34.02(b))

Sec. 74-63. Payment of tax.

The department of revenue shall have full power to administer and enforce the provisions of this section, including all civil penalties assessed as an incident to the tax imposed.

(Code 1977, § 34.02(c); Ord. No. 2000-114, § 1(34.02(e)), 9-18-00)

Secs. 74-64—74-90. Reserved.

**ARTICLE IV. HOME RULE MUNICIPAL
USE TAX**

Sec. 74-91. Tax imposed.

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

(Code 1977, § 34.03(a))

Sec. 74-92. Payment of tax.

Such tax shall be collected by the state department of revenue for all municipalities imposing the tax and shall be paid before the title or certificate of registration for the personal property is issued.

(Code 1977, § 34.03(b))

Secs. 74-93—74-120. Reserved.

**ARTICLE V. FOREIGN FIRE INSURANCE
COMPANIES TAX***

Sec. 74-121. Compliance required.

It shall be unlawful for any company, corporation or association not incorporated under the

***State law reference**—Foreign fire insurance companies, 65 ILCS 5/11-10-1.

Editor's note—Ord. No. 2001-09, § 2(Ch. 36(a)—(i), adopted Jan. 22, 2001, repealed former art. V, §§ 74-121—74-126, in its entirety and enacted new provisions to read as herein set out. Prior to amendment §§ 74-121—74-126 pertained to similar subject matter and derived from the 1977 Code § 36.01(a)—(f).

laws of the State of Illinois to engage in effecting fire insurance, or to transact any business of fire insurance, in the village except in full compliance with all of the requirements of sections 74-121—74-124 of this article. Nothing in this section shall be construed or applied, however, to relieve any company, corporation or association from the payment of any loss upon any risk that may be taken in violation of this section.

(Ord. No. 2001-09, § 2(Ch. 36(a), 1-22-01)

Sec. 74-122. Payment of fees.

Every company, corporation or association not incorporated under the laws of the State of Illinois that is engaged in effecting fire insurance in the village shall pay, for the maintenance, use and benefit of the fire department of the village, a sum of money equal in amount to two percent per annum of the gross receipts received from fire insurance upon property that is situated in the village. Each such company, corporation or association shall pay, at the rate so prescribed, upon the amount of all premiums that have been received during each year ending on July 1, for any fire insurance effected or agreed to be effected on property located within the village by or with such company, corporation or association during the year.

(Ord. No. 2001-09, § 2(Ch. 36(b), 1-22-01)

Sec. 74-123. Report of agents.

Every person acting in the village as agent, or otherwise, for or on behalf of any such company, corporation or association shall, on or before July 15 of each year, render a full and true account, verified by his or her oath, of all premiums upon fire insurance on property located within the village that, during the year ending July 1 preceding such report, shall have been received by him or her, or by any other person for him or her on behalf of any such company, corporation or association. Such agent also shall, at the time of rendering the report, pay the sum of money for which the company, corporation or association represented by him or her is chargeable by virtue of the provisions of this section.

(Ord. No. 2001-09, § 2(Ch. 36(c), 1-22-01)

Sec. 74-124. Collection of fees.

The sum of money for which such company, corporation or association effecting fire insurance is chargeable may be recovered from it, or from its agent or agents, by an action in the name of and for the use of the village as for money had and received. Nothing in this section shall be held to exempt any person from indictment and conviction under the provisions of section 11-10-3 of the Illinois Municipal Code.

(Ord. No. 2001-09, § 2(Ch. 36(d), 1-22-01)

Sec. 74-125. Establishment of foreign fire insurance board.

There is hereby established a foreign fire insurance board, consisting of a president, vice president, treasurer and secretary, to be elected in accordance with section 74-128 of this article below.

(Ord. No. 2001-09, § 2(Ch. 36(e), 1-22-01)

Sec. 74-126. Establishment of foreign fire insurance fund.

There is hereby established a foreign fire insurance fund to be managed and administered by the foreign fire insurance board in accordance with section 74-129 of this article below.

(Ord. No. 2001-09, § 2(Ch. 36(f), 1-22-01)

Sec. 74-127. Transfers to foreign fire insurance fund.

Each year, the village treasurer shall collect foreign fire insurance fees in the amount prescribed in section 74-122 of this article above and shall deposit such fees into the foreign fire insurance fund on or before May 1 of the year following the year of collection. Such fees shall be appropriated for transfer to the foreign fire insurance fund in the manner provided by law.

(Ord. No. 2001-09, § 2(Ch. 36(g), 1-22-01)

Sec. 74-128. Election, powers, duties of foreign fire insurance board.

(a) *Election of foreign fire insurance board.* The sworn members of the village fire department shall elect the president, vice president, treasurer and secretary of the foreign fire insurance board

from among themselves at an election called and organized for such purpose by the village administrator. All sworn members of the fire department shall be eligible for election, including the fire chief, but not including paid-on-call firefighters. The sworn member receiving the most votes for each of the offices of president, vice president, treasurer and secretary shall be elected to such office. A member of the foreign fire insurance board shall be eligible for reelection, but no member shall serve in any office for more than seven consecutive years.

(b) *Time of elections; terms; vacancies.* All four officers of the foreign fire insurance board shall be elected at an initial election, to be held during the month of April 2001. Upon election, the board president and the board secretary shall each serve an initial term of one year and the board vice president and the board treasurer shall each serve an initial term of two years. Thereafter, the board president and the board secretary shall be elected in even years and the board vice president and the board treasurer shall be elected in odd years, each for a term of two years, at elections to be held in the month of April of such years. Members shall serve for their designated terms and until their successors have been elected and qualified for office. Any vacancy that may occur shall be filled for the balance of the unexpired term by appointment of the fire chief.

(c) *Board treasurer's bond.* The board treasurer shall give a bond before entering upon the duties of his or her office, in the sum of \$100,000.00. The bond, the form and content of which shall be approved by the village president, shall be conditioned on the faithful performance by the board treasurer of his or her duties and shall indemnify the village and the foreign fire insurance fund for any loss by reason of any neglect of duty or any act of the board treasurer. The cost of such bond shall be paid out of the foreign fire insurance fund.

(d) *Powers and duties of board.* The foreign fire insurance board shall manage and administer the money in the foreign fire insurance fund as required by the provisions of this section. The board president (or, in the board president's absence, the board vice president) shall preside over

all meetings of the board. The board shall have the power to adopt additional rules and regulations for the management and operation of the board and the foreign fire insurance fund not inconsistent with the provisions of this section; provided that such rules and regulations shall be subject to review by the village attorney and approval by the village president and village board of trustees. In addition, the members of the foreign fire insurance board shall have the other responsibilities set forth in this section. (Ord. No. 2001-09, § 2(Ch. 36(h), 1-22-01)

Sec. 74-129. Management and administration of fund.

The foreign fire insurance board shall administer the foreign fire insurance fund in accordance with the following rules and regulations:

- (1) *Fund account.* All money in the foreign fire insurance fund shall be kept in a fully insured or collateralized interest-bearing account in a bank or savings and loan located within the village, designated by village ordinance as an approved depository of village funds, and meeting the standards of the Public Funds Investment Act, 30 ILCS 235/0.01 et seq., for deposit of public funds.
- (2) *Restrictions on use of fund.* Money from the foreign fire insurance fund may be used for the following purposes and no others:
 - a. Maintenance of existing village fire department firefighting and emergency medical equipment and department facilities.
 - b. Purchase of equipment for firefighting and emergency medical purposes. All such equipment shall be purchased in the name of the village fire department and shall become the property of the village. No such money shall be used for the personal benefit of any person; for any person, use, or function not directly related to the fire department; for food or beverages; or for any recreational or entertainment activity.

(3) *Designation of uses.*

- a. List of appropriate expenditures. The foreign fire insurance board shall develop and maintain a list of those items that the board determines to be appropriate expenditures under Section 11-10-2 of the Illinois Municipal Code, 65 ILCS 5/11-10-2, and this subsection (i). The board shall update this list at least once each year no later than April 1 of each year. The list shall be a public document.
- b. Annual meeting; notice. The foreign fire insurance board shall authorize use of money from the foreign fire insurance fund by written resolution or documented motion setting forth with particularity the items on which funds may be expended and the amounts approved for expenditure. Such action shall be adopted at or after an annual public meeting conducted no later than April 1 of each year, which public meeting shall be noticed and conducted in accordance with the Illinois Open Meetings Act, 5 ILCS 120/1 et seq.
- c. Recommended uses. Not fewer than 30 days prior to the date of the aforesaid public meeting, the foreign fire insurance board shall submit to the village administrator, and make available to the general public, a list of items recommended for approval and funding from the foreign fire insurance fund.
- d. Necessary vote. An affirmative vote of at least three members of the foreign fire insurance board shall be required to authorize any use of money from the foreign fire insurance fund.

(4) *Fund pay outs.* The board treasurer shall pay out money from the foreign fire insurance fund only upon the written order of the foreign fire insurance board and only for maintenance work or purchases autho-

ized by resolution or documented motion of the foreign fire insurance board pursuant to subsection (3), above. The signatures of both the board treasurer and either the board president or the board vice president shall be required on any check, draft or other order drawn on the account of the foreign fire insurance fund.

- (5) *Limitation on debt and expenditures.* The foreign fire insurance board shall not be permitted (a) to incur debt or (b) to enter into any contract or agreement for maintenance of existing village fire department equipment or department facilities or for new equipment in excess of the unencumbered funds currently on deposit in, and authorized for expenditure from, the foreign fire insurance fund at the time of execution of such contract or agreement.
- (6) *Fund records; meeting minutes.* The board treasurer shall keep accurate and current records of the foreign fire insurance fund and all accounts maintained thereunder, including all deposits thereto, withdrawals and disbursements therefrom, balances, and the like. The board secretary shall keep accurate and current minutes of all meetings conducted by the foreign fire insurance board.
- (7) *Annual report.* The foreign fire insurance board shall, on or before June 30 of each year, make and file with the village clerk an annual report of the activities of the foreign fire insurance board during the prior year ended April 30, including a full and detailed account of all receipts and disbursements made from the foreign fire insurance fund during the village's fiscal year ended immediately prior to the filing of such report. The foreign fire insurance fund and all records relating thereto shall be subject to and part of the annual audit of the village.

(Ord. No. 2001-09, § 2(Ch. 36(i), 1-22-01)

Secs. 74-130—74-150. Reserved.

ARTICLE VI. HOTEL OR MOTEL OCCUPANCY TAX*

Sec. 74-151. Definitions.

The following words, terms and phrases when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Hotel room or motel room means a room within a structure offered for rental on a daily basis and containing facilities for sleeping. One room offered for rental with or without an adjoining bath shall be considered as a single hotel or motel room. The number of hotel or motel rooms within a suite shall be computed on the basis of those rooms utilized for the purpose of sleeping.

Owner means 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.

Person means any natural person, trustee, court-appointed representative, syndicate, association, partnership, firm, club, company, corporation, business, trust, institution, agency, government corporation, municipal corporation, district or other political subdivision, contractor, supplier, vendor, vendee, operator, user or owner, or any officers, agents, employees or other representatives, acting either for himself or for any other person in any capacity, or any other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular or plural is included in any circumstances.

(Code 1977, § 38.01)

Cross reference—Definitions generally, § 1-2.

Sec. 74-152. Tax imposed; liability for payment; additional to other taxes; collection.

(a) There is hereby levied and imposed a tax of five percent of the rent charged for the privilege and use of renting a hotel or motel room within the village for each 24-hour period or any portion thereof for which a daily room charge is made;

***Cross reference**—Businesses, ch. 22.

State law reference—Tax not preempted, 65 ILCS 5/8-11-6a(3).

provided, however, that the tax shall not be levied and imposed upon any person who rents a hotel or motel room for more than 30 consecutive days or to a person who works and lives in the same hotel or motel.

(b) The ultimate incidence of any liability for payment of such tax is to be borne by the person who seeks the privilege of occupying the hotel or motel room, such person is referred to in this article as "renter."

(c) The tax levied in this article shall be paid in addition to any and all other taxes and charges. It shall be the duty of the owner of every hotel or motel to secure such tax from the renter of the hotel or motel room and to pay over to the village clerk such tax under procedures prescribed by the village clerk, or as otherwise provided in this article.

(d) Every person required to collect the tax levied by this article shall secure such tax from the renter at the time he collects the rental payment for the hotel or motel room. Upon the invoice receipt or other receipt or other statement or memorandum of the rent given to the renter at the time of payment, the amount due under the tax provided in this article shall be stated separately on such documents.
(Code 1977, § 38.02)

Sec. 74-153. Responsibility of owner to keep daily records; right of village to inspect.

(a) It shall be the duty of every owner to keep accurate and complete books and records to which the village clerk, or his deputy or representative, authorized by him, shall at all times have full access, which records shall include a daily sheet showing:

- (1) The number of hotel or motel rooms rented during the 24-hour period, including multiple rentals of the same hotel room where such shall occur; and
- (2) The actual hotel or motel tax receipts collected for the date in question.

(b) The village clerk, or any person certified by him as his deputy or representative, may enter the premises of any hotel or motel for inspection

and examination of books and records in order to effectuate the proper administration of this article and to assure the enforcement of the collection of the tax imposed. It shall be unlawful for any person to prevent, hinder or interfere with the village clerk or his duly authorized deputy or representative in the discharge of his duties in the performance of this article.

(Code 1977, § 38.03)

Sec. 74-154. Transmittal of tax revenue.

(a) The owner or owners of each hotel or motel room within the village shall file tax returns showing tax receipts received with respect to each hotel and motel room during each month upon forms prescribed by the village clerk. The returns shall be due on or before the 20th day of the succeeding calendar month and the return shall indicate for what period the return is to be filed; i.e. return for January receipts is due on or before the 20th day of February. At the time of filing such tax returns, the owner shall pay to the village clerk all taxes due for the period for which the tax return applies.

(b) If for any reason any tax is not paid when due, a penalty at the rate of one percent per month on the amount of the unpaid tax which remains unpaid shall be added and collected.

(c) Except as provided in this section, all information received by the village clerk from returns filed under this article or from any investigation conducted under the provisions of this article, shall be confidential, except for official purposes with the accounts and finance department or pursuant to official procedures for collection of any state tax or enforcement of any civil or criminal penalty or sanction imposed by this article. Nothing contained in this article shall prevent the village clerk from publishing or making available to the public the names and addresses of persons filing returns under this article and the number of rooms covered in such return, or from publishing or making available reasonable statistics concerning the operation of the tax wherein the contents of returns are grouped into aggregates in such a way that the information contained in any individual return shall not be disclosed. The village clerk may make available to

the Secretary of the Treasury of the United States, or a proper official of the state or a delegate of any other state imposing a tax upon a motel or hotel room, for exclusively official purposes, information received by the village clerk in the administration of this article.
(Code 1977, § 38.04)

Sec. 74-155. Action to enforce payment.

Whenever any person shall fail to pay any tax as provided in this article, the village attorney shall, upon the request of the village clerk, bring or cause to be brought an action to enforce the payment of such tax in behalf of the village in any court of competent jurisdiction.
(Code 1977, § 38.05)

Sec. 74-156. Disposition of proceeds from tax and fines.

(a) Two percent of the gross tax revenue collected shall be appropriated for and directed for promotion of tourism and conventions within the village or otherwise to attract nonresidents and overnight visitors to the village, and the village may by special agreement transfer such two percent to a convention or visitor's bureau on an annual basis.

(b) All of the remaining proceeds resulting from the imposition of the tax under this article, including penalties, shall be paid into the treasury of the village.
(Code 1977, § 38.06)

Sec. 74-157. Penalties.

(a) Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with, or resisting or opposing the enforcement of any of the provisions of this article, except when otherwise specifically provided, upon conviction thereof shall be punished by a fine of not less than \$200.00 nor more than as provided in section 1-11 for the first offense and not less than as \$300.00 nor more than provided in section 1-11 for the second and each subsequent offense in any 180-day period; provided, however, that all actions seeking the imposition of fines only shall be filed as quasi-criminal actions subject to the provisions of the state code of civil procedure.

(b) Repeated offenses in excess of three within any 180-day period may also be punishable as a misdemeanor by incarceration in the county jail for a term not to exceed six months under the procedure set forth in section 1-2-1.1 of the Illinois Municipal Code (65 ILCS 5/1-2-1.1) and under the provisions of the Illinois Code of Criminal Procedure (725 ILCS 5/100-1 et seq.) in a separate proceeding, A separate and distinct offense shall be regarded as committed each day upon which such person shall continue any such violation, or permit any such violation to exist after notification thereof.
(Code 1977, § 38.07)

Secs. 74-158—74-176. Reserved.

**ARTICLE VII. RESORT HOTEL
OCCUPANCY TAX**

Sec. 74-177. Definitions.

The following words, terms and phrases when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Owner means any person having an ownership interest in or conducting the operation of a resort hotel room or receiving the consideration for the rental of such resort hotel room.

Person means any natural person, trustee, court-appointed representative, syndicate, association, partnership, firm, club, company, corporation, business, trust, institution, agency, government corporation, municipal corporation, district or other political subdivision, contractor, supplier, vendor, vendee, operator, user or owner, or any officers, agents, employees or other representatives, acting either for himself or for any person in any capacity, or any other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular or plural is included in any circumstances.

Rent or rental means a transaction where under the person who owns or controls the resort hotel room permits another person to have the occupancy or use thereof for a consideration and

for the duration of a definite or indefinite period of time without transfer of the title to such resort hotel room.

Resort hotel means a full-service hotel with at least the following characteristics:

- (a) 300 rooms;
- (b) 4,000 gross square feet of spa and fitness facilities;
- (c) One full-service restaurant; and
- (d) An accessory recreational or entertainment amenity such as but not limited to a water park, theater, or golf course.

Resort hotel room means a room within a resort hotel structure offered for rental on a daily basis and containing facilities for sleeping. One room offered for rental with or without an adjoining bath shall be considered as a single hotel room. The number of hotel rooms within a suite shall be computed on the basis of those rooms utilized for the purposes of sleeping.

(Ord. No. 2004-104, § I, 12-20-2004)

Sec. 74-178. Tax imposed, liability for payment; additional to other taxes; collection.

(a) There is hereby levied and imposed a tax of two percent of the rent charged for the privilege of renting a resort hotel room, where such rent may or may not include the cost of use of the principal recreational or entertainment amenity, within the village for each 24-hour period or any portion thereof for which a daily room charge is made.

(b) The ultimate incidence of any liability for any payment of such tax is to be borne by the person who seeks the privilege of renting the resort hotel room, such person is referred to in this article as "renter."

(c) The tax levied in this article shall be paid in addition to any and all other taxes and charges including, but not limited to, the hotel or motel occupancy tax under section 74-151 et seq. of the village Municipal Code. It shall be the duty of the owner of every resort hotel to secure such tax from the renter of the resort hotel room and to pay

over to the village clerk such tax under procedures prescribed by the village clerk, or as otherwise provided in this article.

(d) Every person required to collect the tax levied by this article shall secure such tax from the renter at the time he collects the rental payment for the resort hotel room. Upon the invoice receipt or other receipt or other statement or memorandum of the rent given to the renter at the time of payment, the amount due under the tax provided in this article shall be stated separately on such documents.

(Ord. No. 2004-104, § I, 12-20-2004)

Sec. 74-179. Responsibility of owner to keep daily records; right of village to inspect.

(a) It shall be the duty of every owner to keep accurate and complete books and records to which the village clerk, or his deputy or representative, authorized by him, shall at all times have full access, which records shall include a daily sheet showing:

- (1) The number of resort hotel rooms rented during the 24-hour period, including multiple rentals of the same resort hotel room where such shall occur; and
- (2) The actual resort hotel tax receipts collected for the date in question.

(b) The village clerk, or any person certified by him as his deputy or representative, may enter the premises of any resort hotel for inspection and examination of books and records in order to effectuate the proper administration of this article and to assure the enforcement of the collection of the tax imposed. It shall be unlawful for any person to prevent, hinder or interfere with the village clerk or his duly authorized deputy or representative in the discharge of his duties in the performance of this article.

(Ord. No. 2004-104, § I, 12-20-2004)

Sec. 74-180. Transmittal of tax revenue.

(a) The owner or owners of each resort hotel room within the village shall file tax returns showing tax receipts received with respect to each resort hotel room during each month upon forms

prescribed by the village clerk. Each return shall be accompanied by a certification in a form reasonably acceptable to the village administrator and executed by a duly authorized official of the entity remitting the return which attests to the accuracy and completeness of the return. The returns shall be due on or before the 20th day of the succeeding calendar month and the return shall indicate for what period the return is to be filed; i.e., return for January receipts is due on or before the 20th day of February. At the time of filing such tax returns, the owner shall pay to the village clerk all taxes due for the period for which the tax return applies.

(b) If for any reason any tax is not paid when due, a penalty at the rate of one percent per month on the amount of the unpaid tax which remains unpaid shall be added and collected.

(c) Except as provided in this section, all information received by the village clerk from returns filed under this article or from any investigation conducted under the provisions of this article, shall be confidential, except for official purposes with the accounts and finance department or any state tax or enforcement of any civil or criminal penalty or sanction imposed by this article. Nothing contained in this article shall prevent the village clerk from publishing or making available to the public the names and addresses of persons filing returns under this article and the number of rooms covered in such return. The village clerk may make available to the Secretary of the Treasury of the United States, or a proper official of the state or a delegate of any other state imposing a tax upon a resort hotel room, for exclusively official purposes, information received by the village clerk in the administration of this article. (Ord. No. 2004-104, § I, 12-20-2004)

Sec. 74-181. Action to enforce payment.

Whenever any person shall fail to pay any tax as provided in this article, the village attorney shall, upon the request of the village clerk, bring or cause to be brought an action to enforce the payment of such tax in behalf of the village in any court of competent jurisdiction. (Ord. No. 2004-104, § I, 12-20-2004)

Sec. 74-182. Disposition of proceeds from tax and fines.

All of the proceeds resulting from the imposition of the tax under this article, including penalties, shall be paid to the treasury of the village. (Ord. No. 2004-104, § I, 12-20-2004)

Sec. 74-183. Penalties.

(a) Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this article, except when otherwise specifically provided, upon conviction thereof shall be punished by a fine of not less than \$200.00 nor more than as provided in section 1-11 for the first offense and not less than as \$300.00 nor more than provided in section 1-11 for the second and each subsequent offense in any 180-day period; provided, however, that all actions seeking the imposition of fines only shall be filed as quasi-criminal actions subject to the provisions of the state code of civil procedure.

(b) Repeated offenses in excess of three within any 180-day period may also be punishable as a misdemeanor by incarceration in the county jail for a term not to exceed six months under the procedure set forth in section 1-2-1.1 of the Illinois Municipal Code (65 ILCS 5/1-2-1.1) and under the provisions of the Illinois Code of Criminal Procedure (725 ILCS 5/100-1 et seq.) in a separate proceeding. A separate and distinct offense shall be regarded as committed each day upon which such person shall continue any such violation, or permit any such violation to exist after notification thereof. (Ord. No. 2004-104, § I, 12-20-2004)

Secs. 74-184—74-199. Reserved.

ARTICLE VIII. FOOD AND BEVERAGE TAX

Sec. 74-200. Food and beverage tax.

A tax shall be imposed on the sale at retail of prepared food and alcoholic liquor which is sold in

the village. The tax imposed in this article shall be known and cited as the "Food and Beverage Tax".

(Ord. No. 2006-40, § I, 5-15-2006)

Sec. 74-201. Definitions.

For the purposes of this article, unless the context otherwise requires, the following words or terms shall have the meanings respectively applied to them:

(a) *Prepared food:*

- (1) "Prepared food" means and includes any solid, liquid (including both alcoholic and nonalcoholic liquid), powder or item used or intended to be used for human internal consumption, whether simple, compound or mixed, and which has been prepared for immediate consumption.
- (2) "Prepared food" includes any such item purchased for consumption within or upon the premises where it is sold or where such item may be purchased for consumption off the premises. However, with respect to food purchased for consumption off the premises where it is sold, "prepared food" does not mean or include any food which is sold in a sealed bottle, can, carton, or container of the manufacturer or wholesaler or which has not been prepared for immediate consumption.
- (3) "Prepared food" shall not include any sale or purchase of undispensed soft drinks, meaning any complete, finished, ready-to-use, nonalcoholic drink, whether carbonated or not, including but not limited to soda water, cola, fruit juice, vegetable juice, carbonated water, and all other preparations commonly known as soft drinks of whatever kind or description that are contained in any closed or sealed bottle, can, carton or container, regardless of size. Soft drinks as defined herein do not include coffee, tea, noncarbonated water, milk or milk products as defined in the Grade A Pasteurized Milk and Milk Products Act, or drinks containing 50 percent or more natural fruit or vegetable juice.

(b) *Alcoholic liquor* means any alcohol, spirits, wine, beer, or ale as defined, set forth and regulated in chapter 6 of this Code, which is sold at retail either for consumption on the premises where sold or is sold in its original package for consumption off the premises.

(c) *Alcoholic liquor facility* means any establishment licensed under the provisions of chapter 6, Alcoholic beverages, of this Code and that sells alcoholic liquor on a retail basis.

(d) *Person* means any individual, firm, corporation, limited liability company or similar representative or entity.

(e) *Purchase at retail* means 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.

(f) *Retailer* means a person as defined herein that sells or offers for sale prepared food in/or alcoholic liquor for use or consumption and not for resale.

(g) *Prepared food facility:*

- (1) "Prepared food facility" means any person or establishment which sells at retail, food prepared for immediate consumption and whether or not such prepared food facility use is conducted along with any other use(s) in a common premises or business establishment.
- (2) A "prepared food facility" includes, but is not limited to, those persons or establishments, commonly called an inn, restaurant, eating place, drive-in restaurant, bakery, buffet, cafeteria, cafe, lunch-counter, fast food outlet, catering service, coffee shop, diner, sandwich shop, service station mini market; soda fountain, tavern, bar, cocktail lounge, soft drink parlor, ice cream parlor, tea room, delicatessen, movie theater, mobile food or beverage or ice cream vehicle, hotel, motel or club, or other establishment which sells at retail, food which has been prepared for immediate consumption.
- (3) A "prepared food facility" does not include coin operated automatic food item dispens-

ing machines, churches, public or private schools, boarding houses, hospitals, day care centers, nursing homes, retirement centers or similar residential care facilities or programs for the central preparation of meals to be delivered and consumed at private residences of invalids or the elderly, and other facilities of not-for-profit associations or corporations.

(Ord. No. 2006-40, § I, 5-15-2006)

Sec 74-202. Tax imposed.

Effective as of and commencing on the July 1, 2006, a tax, in addition to any and all other taxes, is imposed upon the purchase of prepared foods and alcoholic liquor at retail at any prepared food facility or alcoholic liquor facility within the village at a rate of one percent of the purchase price of such prepared foods and alcoholic liquor. The liability for payment of the tax shall be borne by the purchaser.

(Ord. No. 2006-40, § I, 5-15-2006)

Sec 74-203. Collection of tax by retailer.

The owner and the operator of each prepared food facility and each alcoholic liquor facility within the village shall jointly and severally have the duty to collect and account for said tax from each purchaser at the time that the consideration for such purchase is paid.

(Ord. No. 2006-40, § I, 5-15-2006)

Sec 74-204. Responsibility of owner to keep daily records; right of village to inspect.

The owner and operator of each prepared food facility and each alcoholic liquor facility within the village shall jointly and severally have the duty to maintain complete and accurate books, records and accounts showing the gross receipts for sales of prepared food and alcoholic liquor and the taxes collected each day, which shall be made available to the village for examination and for audit by the village upon reasonable notice and during customary business hours.

(Ord. No. 2006-40, § I, 5-15-2006)

Sec 74-205. Transmittal of tax collection.

Each prepared food facility and alcoholic liquor facility within the village shall jointly and severally have the duty to cause to be filed a sworn return with the village clerk for each such facility for each such licensed premises located in the village. Said return shall be prepared and submitted in forms prescribed by the village. Said returns shall be filed with the village by the 20th day of the succeeding calendar month. Said return shall also be accompanied by payment to the village of all taxes imposed by this article which are due and owing for the period covered by the return. The return shall also be accompanied with a copy of the return filed with the Illinois Department of Revenue for sales within the Village of Gurnee covering the same reporting period.

(Ord. No. 2006-40, § I, 5-15-2006)

Sec 74-206. Transmittal of excess tax collections.

If any person collects an amount in excess of the tax imposed by this article, but which amount is purported to be a collection thereof, and does not return the same to the purchaser who paid the tax, the person who collected the tax shall account for and pay over those excess amounts to the village along with the tax properly collected.

(Ord. No. 2006-40, § I, 5-15-2006)

Sec 74-207. Late payment fee.

If any tax imposed by this article is not paid when due, a late payment penalty equal to five percent of the unpaid tax shall be added for each month, or any portion thereof, that such tax remains unpaid, and the total of such late payment shall be paid along with the tax imposed by this article.

(Ord. No. 2006-40, § I, 5-15-2006)

Sec. 74-208. Action to enforce payment.

Whenever any person shall fail to pay any tax as provided in this article, the village attorney shall, upon request of the village clerk, bring or cause to be brought an action to enforce the payment of such tax on behalf of the village in any court of competent jurisdiction.

(Ord. No. 2006-40, § I, 5-15-2006)

Sec. 74-209. Penalties.

(a) Any person found guilty of violating, disobeying, omitting, neglecting, failing to submit a correct tax return by the return date or refusing to comply with any of the provisions of this article, except when otherwise specifically provided, upon conviction thereof shall be punished by a fine of not less than \$200.00 nor more than as provided in section 1-11 of this Code for the first offense and not less than \$300.00 nor more than as provided in section 1-11 of this Code for the second and each subsequent offense in any 180-day period; however, that all actions seeking the imposition of fines only shall be filed as quasi-criminal actions subject to the provisions of the Illinois Code of Civil Procedure.

(b) Repeated offenses in excess of three within any 180-day period may also be punishable as a misdemeanor by incarceration in the county jail for a term not to exceed six months under the procedure set forth in Section 1-2-1.1 of the Illinois Municipal Code (65 ILCS 5/1-2-1.1) and under the provisions of the Illinois Code of Criminal Procedure (725 ILCS 5/100-1 et seq.) in a separate proceeding. A separate and distinct offense shall be regarded as committed each day upon which such person shall continue any such violation, or permit any such violation to exist after notification thereof.

(c) Failure to comply with any provision of this article can result in the suspension, revocation, or refusal to renew alcoholic liquor licenses as defined in chapter 6 of this Code.

(Ord. No. 2006-40, § I, 5-15-2006)

Sec. 74-210. Confidentiality.

All information received by the village from returns filed pursuant to this article or from any investigations conducted pursuant to this article, except for official village purposes, or as required by the Freedom of Information Act, shall be confidential.

(Ord. No. 2006-40, § I, 5-15-2006)