

## **GENERAL PROVISIONS**

### Title 3

#### **REVENUE AND FINANCE**

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## GENERAL PROVISIONS

### Chapter 3.04

#### GENERAL PROVISIONS<sup>1</sup>

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##### **3.04.010 Fiscal year.**

The fiscal year of the city shall begin on the first day of May of each year and end on the last day of April of the following year. (Prior code § 10.702.)

##### **3.04.020 Annual budget - Enactment by city council - Available for public inspection.**

- A. During the last quarter of each fiscal year as required by state statute, the city council shall enact a budget in which shall be itemized all anticipated expenditures to be met during the coming year other than those payable from bond issues and all anticipated revenues to be received or accrued during the coming year.
  - B. This budget document shall be available for public inspection at least ten days prior to its passage and a public hearing shall be held after due publication as required by state.
- (Ord. 1968-7: prior code § 10.201.)

##### **3.04.050 Contracts.**

The mayor, or any other person designated by the city council, may sign on behalf of the city any contract authorized by the city council. No contract may be entered into without the authority of the city council. (Prior code § 10.204.)

##### **3.04.060 Bills - Approval required before payment.**

All bills payable by the city, other than for the payment of salaries established by the city council, shall be submitted to the city council for approval before payment. (Prior code § 10.205.)

##### **3.04.070 Payment by treasurer - Warrants required.**

The treasurer shall pay out money in payment of all bills, or for salaries, or for any other purpose only upon warrant signed by the mayor and comptroller as provided by statute. Such warrants shall designate the items to be paid and the funds from which they are to be paid. (Ord. 1965-14 § 1: prior code § 10.206.)

##### **3.04.080 Audit - Required annually - Filing.**

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As soon as practicable at the close of each fiscal year, and not later than six months thereafter, there shall be an audit of all accounts of the city made by a competent person authorized to act as an auditor under the laws of Illinois, to be designated by the city council. Copies of such audit report shall be filed with the city clerk and with the director of the state department of revenue and in such other places as may be required by law. (Prior code § 10.207.)

### **3.04.090 State sales tax - Collection authority.**

The finance director of the city shall be authorized to collect for the state the entire five percent state sales tax on the sale of electricity from and after this date. (Ord. 1971-M-33.)

(REPEALED)

3.08 Municipal Retailers' Occupation Tax  
(Ord. 2004-M-46 § 1.)

(REPEALED)

3.12 Municipal Service Occupation Tax (REPEALED)  
(Ord. 2004-M-47 § 1.)

Chapter 3.16

**MUNICIPAL USE TAX<sup>4</sup>**

Sections:

- |          |                       |
|----------|-----------------------|
| 3.16.010 | Required.             |
| 3.16.020 | Collection - Payment. |

**3.16.010 Required.**

A tax is imposed in accordance with the provisions of Section 8-11-6 of the Illinois Municipal Code upon the privilege of using in the municipality 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 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, 35 ILCS 105/1 et seq. (Ord. 1996-M-53 § 11; Ord. 1975-M-14 § 1.)

**3.16.020 Collection - Payment.**

Such tax shall be collected by the Illinois Department of Revenue and shall be paid before the title or certificate of registration for the personal property is issued. (Ord. 1975-M-14 § 2.)

Chapter 3.20

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Sections:

3.20.010	Definitions.
3.20.020	Tax.
3.20.030	Books and records.
3.20.040	Transmittal of tax revenue.
3.20.050	Collection.
3.20.060	Proceeds of tax and fines.
3.20.070	Suspension of licenses.
3.20.080	Printing of price on ticket.
3.20.090	Temporary or transient places charging admissions - Permit and bond required.
3.20.100	Determination of tax due by city collector.
3.20.110	Rules and regulations.
3.20.120	Penalties.
3.20.130	Purpose of penalties.

**3.20.010 Definitions.**

For the purpose of this chapter, whenever any of the following words, terms, or definitions are used in this chapter, they shall have the meaning ascribed to them in this section:

- A. "Owner" means any person or persons having a sufficient proprietary interest in conducting the operation at a place so as to entitle such a person to all or a portion of the net receipts thereof.
- B. "Person" means any natural person, trustee, court-appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agency, contractor, supplier, vendor, vendee, operator, user or owner, or any officers, agents, employees or other representative, acting either for himself or herself 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.
- C. "Place" means any circuses, carnivals, amusement parks, fairs, exhibitions or shows of hawkers, peddlers, itinerant merchants and transient vendors of merchandise, and markets providing an exhibition, show or amusement by displaying merchandise of more than one vendor.
- D. "Admission charge" means any charge for the right or the privilege to enter any place; it includes a charge made for season tickets or subscriptions. "Admission charge" also includes all parking charges where the charge for persons is determined per automobile.

(Ord. 1981-M-12 § 1 (part).)

**3.20.020 Tax.**

- A. There is levied and imposed upon every person who pays an admission charge to any place located within the city limits a tax of ten percent of each admission charge at the place exclusive of other state or federal taxes; provided, however, that the tax shall not apply or be imposed upon any consumer attending or participating in:
  - 1. Not-for-profit religious, or charitable institutions, societies or organizations; provided, however, that no part of the net earnings are retained or retainable by the owner;

## ADMISSIONS TAX

2. Grammar, junior high and high schools located within the city;
  3. Governmental units, boards, commissions, and bodies duly organized under the laws of the city, state of Illinois, and/or United State of America.
- B. The ultimate incidence of and liability for payment of the tax shall be borne by the person who seeks participation or admission to any such place, that person referred to in this chapter as "consumer."
- C. The tax levied in this chapter shall be paid in addition to any and all other taxes and charges. It shall be the duty of every person receiving an admission charge upon which a tax is levied under this chapter to secure the tax from the consumer, to act as trustee for and on account of the city, and to pay over to the city comptroller the tax under procedures prescribed by the city comptroller or as otherwise provided in this chapter.
- D. Every person required to collect the tax levied by this chapter shall secure the tax from the consumer at the time he collects the admission charge.
- E. As an alternative to the individual collection of admission tax, an owner can elect to pay yearly lump sum amount in satisfaction shall be calculated by assessing the highest yearly amount of admissions tax paid over the owner's last three fiscal years plus an adjustment which reflects the Consumer Price Index. This alternative form of admission tax payment lies within the sole discretion of the City and, in the event of change of circumstances, the City retains the right to impose the per capita admissions tax system delineated in the remainder of this section.

(Ord. 2006-M-52 § 1; Ord. 1981-M-12 § 1 (part))

### **3.20.030 Books and records.**

The comptroller or any person certified as his or her delegate may enter the premises of the place for inspection and examination of books and records in order to effectuate the proper administration of this chapter and to assure the enforcement of the collection of the tax imposed. It is unlawful for any person to prevent, hinder, or interfere with the comptroller or his or her duly authorized delegate in the discharge of his or her duties and the performance of this chapter. It shall be the duty of every owner to keep accurate and complete books and records to which the comptroller or his or her delegate shall at all times have full access, which records shall include a daily sheet showing:

- A. The number of admission charges charged within the twenty-four-hour period; and
- B. The actual admission charge tax receipts collected for the date in question.

(Ord. 1981-M-15 § 1; Ord. 1981-M-12 § 1 (part).)

### **3.20.040 Transmittal of tax revenue.**

- A. The owner or owners of each place within the city shall file tax returns showing tax receipts received on forms prescribed by the comptroller. The returns shall be due on or before the last day of the calendar month succeeding the end of the monthly filing period.
- B. The first taxing period for the purpose of this chapter shall commence on July 1, 1981, and the tax return and payment for such period shall be due on or before August 31, 1981. Thereafter, reporting periods and tax payments shall be in accordance with the provisions of this chapter. At the time of filing the returns, the owner shall pay to the comptroller all taxes due for the period to which the tax return applies.
- C. If for any reason any tax is not paid when due, a penalty at the rate of one percent per month or portion thereof, from the date of delinquency shall be added and collected.

(Ord. 1981-M-12 § 1 (part).)

### **3.20.050 Collection.**

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Whenever any person fails to pay any tax as provided in this chapter, the corporation counsel shall, upon the request of the city comptroller, bring or cause to be brought an action to enforce the payment of the tax on behalf of the city in any court of competent jurisdiction. (Ord. 1981-M-12 § 1 (part).)

### **3.20.060 Proceeds of tax and fines.**

All proceeds resulting from the imposition of the tax under this chapter, including penalties, shall be paid into the treasury of the city and shall be credited to and deposited in the corporate fund of the city. (Ord. 1981-M-12 § 1 (part).)

### **3.20.070 Suspension of licenses.**

If the mayor, after hearing held by him or for him, finds that any person has wilfully avoided payment of the tax imposed by this chapter, he may suspend or revoke all city licenses held by such tax evader. The owner, manager, or operator of the place shall have an opportunity to be heard at such hearing to be held not less than five days after notice of the time and place of the hearing to be held, addressed to the owner at his last known place of business. (Ord. 1981-M-12 § 1 (part).)

### **3.20.080 Printing of price on ticket.**

The price (exclusive of the taxes to be paid by the person paying for admission) at which every admission ticket or card is sold shall be conspicuously and indelibly printed, written, or stamped on the face or back of that part of the ticket which is taken up by the management of the place to which admission is granted. (Ord. 1981-M-12 § 1 (part).)

### **3.20.090 Temporary or transient places charging admissions - Permit and bond required.**

- A. Every person paying an admission to a temporary or transient place as defined in Section 3.20.010 shall also be subject to the tax levied by this chapter, and every person operating or conducting such a temporary or transient place shall collect and remit such tax as provided in this chapter.
- B. Prior to conducting such a temporary or transient place, a permit shall first be obtained from the city comptroller. Every person conducting such temporary or transient place shall file a statement and remittance covering the taxes collected on the day following the conclusion of operations or at such reasonable time or times as the city comptroller determines; provided, however, that before a permit shall be issued under this section, the applicant for the same shall deposit with the city comptroller a sum of money, or bond in lieu thereof, conditioned upon the faithful compliance with the provisions of this section, in an amount to be determined by the city comptroller as sufficient to cover the amounts which shall become due and owing to the city upon the conclusion of temporary or transient operations.

(Ord. 1981-M-12 § 1 (part).)

### **3.20.100 Determination of tax due by city collector.**

If any person required to collect and remit the tax imposed by this chapter fails to file a statement and a remittance, or if the city comptroller has reasonable cause to believe that an erroneous statement has been filed, the city comptroller may proceed to determine the amount due to the city and in connection therewith shall make such investigations and take such testimony and other evidence as may be necessary; provided, however, that notice and opportunity to be heard be given any person who may become liable for the amount owing prior to any determination by the city comptroller. (Ord. 1981-M-12 § 1 (part).)

### **3.20.110 Rules and regulations.**

The city comptroller shall have power to adopt rules and regulations not inconsistent with the provisions of this chapter for the purposes of carrying out and enforcing the payment, collection and

## ADMISSIONS TAX

remittance of the tax levied in this chapter, and a copy of such rules and regulations shall be on file and available for public examination in the city comptroller's office. Failure or refusal to comply with any rules and regulations promulgated under this section shall be deemed a violation of this chapter. (Ord. 1981-M-12 § 1 (part).)

### **3.20.120 Penalties.**

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 chapter, except when otherwise specifically provided, upon conviction thereof, shall be punished by a fine of not less than two hundred dollars nor more than three hundred dollars for the first offense and not less than three hundred dollars nor more than five hundred dollars for the second and each subsequent offense in any one-hundred-eight-day period. (Ord. 1981-M-12 § 1 (part).)

### **3.20.130 Purpose of penalties.**

The purpose of imposing the penalties set out in Section 3.20.120 is to insure the integrity of the collection process established pursuant to this chapter. (Ord. 1981-M-12 § 1 (part).)

# MUNICIPAL AUTOMOBILE RENTING OCCUPATION TAX

## Chapter 3.24

### MUNICIPAL AUTOMOBILE RENTING OCCUPATION TAX

#### Sections:

3.24.010	Imposed - Rate.
3.24.020	Filing of report.
3.24.030	Payment.

#### **3.24.010 Imposed - Rate.**

A tax is imposed upon all persons engaged in the business of renting automobiles in this city at the rate of one percent of the gross receipts from such rentals made in the course of such business while the ordinance codified in this chapter is in effect, in accordance with the provisions of Section 8-11-7 of the Illinois Municipal Code. (Ord. 1982-M-1 § 1 (part); Ord. 1981-M-48 § 1 (part).)

#### **3.24.020 Filing of report.**

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 Sections Two and Three of "An Act in Relation to a Tax upon Persons Engaged in the Business of Selling Tangible Personal Property to Purchasers for Use or Consumption" approved June 29, 1933, as amended. (Ord. 1982-M-1 § 1 (part); Ord. 1981-M-48 § 1 (part).)

#### **3.24.030 Payment.**

At the time such report is filed, there shall be paid to the State Department of Revenue the amount of tax imposed on account of the renting of automobiles during the preceding month. (Ord. 1982-M-1 § 1 (part); Ord. 1981-M-48 § 1 (part).)

**AUTOMOBILE RENTING USE TAX**

Chapter 3.28

**AUTOMOBILE RENTING USE TAX**

Sections:

3.28.010	Imposed - Rate.
3.28.020	Collection.
3.28.030	Payment.

**3.28.010 Imposed - Rate.**

A tax is imposed upon the privilege of using in this city an automobile which is rented from a renter outside Illinois and which is titled or registered with an agency of this state's government in this city at the rate of one percent of the rental price of such automobile while the ordinance codified in this chapter is in effect, in accordance with the provisions of Section 8-11-8 of the Illinois Municipal Code. (Ord. 1982-M-2 § 1 (part); Ord. 1981-M-47 § 1 (part).)

**3.28.020 Collection.**

The tax provided for in this chapter shall be collected from the persons whose Illinois address for titling or registration purposes is given as being in this city. (Ord. 1982-M-2 § 1 (part); Ord. 1981-M-47 § 1 (part).)

**3.28.030 Payment.**

The tax imposed by this chapter shall be paid to the Illinois Department of Revenue. (Ord. 1982-M-2 § 1 (part); Ord. 1981-M-47 § 1 (part).)

# HOTEL OPERATORS' OCCUPATION TAX

## Chapter 3.32

### HOTEL OPERATORS' OCCUPATION TAX<sup>5</sup>

#### Sections:

3.32.010	Definitions.
3.32.020	Rate - Exemption.
3.32.030	Books and records.
3.32.040	Return of taxpayer - Payment of tax.
3.32.050	Exemptions.
3.32.060	Interest.
3.32.070	Claims to recover erroneously paid tax.
3.32.075	Proceeds.
3.32.080	Separability.

#### **3.32.010 Definitions.**

As used in this chapter, 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 houses, 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 thirty 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; but does not include tax charges that are added to prices by hotel operators on account of the hotel operators' tax liability under Section 3.32.020 (E) of the St. Charles Municipal Code or on account of the hotel operators' tax liability under "The Hotel Operators' Occupation Tax Act," 35 ILCS 510/1 et seq. (1992), which tax charges are separately stated or stated in combination in a single amount. (1995-M-19 § 1.)
- G. "Comptroller" means the office of St. Charles Comptroller.
- H. "Person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, or a receiver, executor, trustee, conservator or other representative appointed by order of any court.

(Ord. 1986-M-27 § 1; Ord. 1983-M-17 § 1 (part); Ord. 1982-M-65 § 1 (part).)

#### **3.32.020 Rate - Exemption.**

- A. A tax is imposed upon persons engaged in the city in the business of renting, leasing or letting rooms in a hotel at the rate of five (5) percent of ninety-four (94) percent 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 to permanent residents of that hotel.
- B. No funds received pursuant to this chapter shall be used to advertise for or otherwise promote new competition in the hotel business. (Ord. 1987-M-72 § 1)

## HOTEL OPERATORS' OCCUPATION TAX

- C. Nothing in this chapter shall be construed to authorize a tax 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 State of Illinois.
- D. Persons subject to the tax imposed by this chapter may reimburse themselves for their tax liability under this chapter by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with the state tax imposed under "The Hotel Operators' Occupation Tax Act," 35 ILCS 510/1 et seq. (1992).
- E. If any hotel operator collects an amount (however designated) which purports to reimburse such operator for a hotel operators' occupation tax liability measured by receipts which are not subject to hotel operators' occupation tax, or if any hotel operator, in collecting an amount (however designated) which purports to reimburse such operator for hotel operators' occupation tax liability measured by receipt which are subject to tax under this chapter, collects more from the customer than the operators' hotel operators' occupation tax liability in the transaction is, the customer shall have a legal right to claim a refund of such amount from such operator. However, if such amount is not refunded to the customer for any reason, the hotel operator is liable to pay such amount to the comptroller.

(Ord. 1995-M-32 § 1; Ord. 1995-M-19 § 1; Ord. 1986-M-27 § 1; Ord. 1983-M-17 § 1 (part); Ord. 1982-M-65 § 1 (part).)

### 3.32.030 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 chapter 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 3.32.020 hereof upon the entire proceeds from his hotel. (Ord. 1995-M-19 § 1; Ord. 1986-M-27 § 1; Ord. 1983-M-17 § 1 (part); Ord. 1982-M-65 § 1 (part).)

### 3.32.040 Return of taxpayer - Payment of tax.

- A. 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 comptroller, stating:
  - 1. The name of the operator;
  - 2. His residence 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;
  - 3. The total amount of rental receipts received by him during the preceding calendar month from renting, leasing or letting rooms during such preceding calendar month;
  - 4. 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;
  - 5. Total amount of other exclusions from gross rental receipts allowed by this chapter;
  - 6. Gross rental receipts which were received by him during the preceding calendar month and upon the basis of which the tax is imposed;
  - 7. The amount of tax due;
  - 8. The amount of penalty due, if any;
  - 9. Such other reasonable information as the comptroller may require.
- B. If the operator's average monthly tax liability to the comptroller does not exceed one hundred dollars, the comptroller may authorize his returns to be filed on a quarter annual basis, with the return for January, February and March of a given year being due by April 30th of such year; with the return for April, May and June of a given year being due by July 31st of such year; with the return for July, August, and September of a given year being due

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- by October 31st of such year, and with the return for October, November and December of a given year being due by January 31st of the following year.
- C. If the operator's average monthly tax liability to the comptroller does not exceed twenty dollars(\$20.00), the comptroller may authorize his returns to be filed on an annual basis, with the return for a given year being due by January 31st of the following year.
  - D. Such quarterly and annual returns, as to form and substance, shall be subject to the same requirements as monthly returns.
  - E. Notwithstanding any other provision of this chapter 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 chapter, such operator shall file a final return, under this chapter, with the comptroller not more than one (1) month after discontinuing such business.
  - F. Where the same person has more than one (1) business registered with the comptroller under separate registrations under this chapter, such person shall not file each return that is due as a single return covering all such registered businesses, but shall file separate returns for each such registered business.
  - G. 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 comptroller.
  - H. 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.
  - I. The person filing the return herein provided for shall, at the time of filing the return, pay to the comptroller the amount of tax imposed. All monies received by the comptroller, under the provisions of this chapter, shall be paid into the city treasury.
  - J. The comptroller may, upon separate written notice to a taxpayer, require the taxpayer to prepare and file with the comptroller within not less than sixty (60) days after receipt of the notice an annual information return for the tax year specified in the notice. Such annual return to the comptroller 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 comptroller 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 comptroller shall also disclose any additional reasonable information which the comptroller 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.
  - K. 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 comptroller shall include a warning that the person signing the return may be liable for perjury.
  - L. 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.

(Ord. 1995-M-19 § 1; Ord. 1986-M-27 § 1; Ord. 1983-M-17 § 1 (part); Ord. 1982-M-65 § 1 (part).)

### 3.32.050 Exemptions.

## HOTEL OPERATORS' OCCUPATION TAX

- A. Any person engaged in the business of renting, leasing or letting hotel rooms in this city who fails to make a return, or to keep books and records as required herein, or who makes a fraudulent return, or who willfully violates any provision of this chapter, or any officer or agent of a corporation engaged in the business of renting, leasing or letting hotel rooms in this city who signs a fraudulent return made on behalf of such corporation shall, if found guilty, be fined not more than \$500.00. Each and every day such person is engaged in business in violation of this chapter shall constitute a separate offense.
- B. Any person who accepts money that is due to the comptroller under this chapter from a taxpayer for the purpose of acting as the taxpayer's agent to make the payment to the comptroller, but who fails to remit such payment to the comptroller when due, or who purports to make such payment but fails to do so because his check or other remittance fails to clear the bank or other depository against which it is drawn, shall, if found guilty, be fined not more than \$500.00.
- C. Any hotel operator who collects or attempts to collect an amount (however designated) which purports to reimburse such operator for hotel operators' occupation tax liability measured by receipts which such operator knows are not subject to hotel operators' occupation tax, or any hotel operator who knowingly over-collects or attempts to over-collect an amount purporting to reimburse such operator for hotel operators' occupation tax liability in a transaction which is subject to the tax that is imposed by this chapter, shall, if found guilty, be fined not more than \$500.00.

(Ord. 1995-M-19 § 1.)

### **3.32.060 Interest.**

In the event of failure by any person to pay to the comptroller the tax required hereunder within thirty (30) days after the same shall be due, interest shall accumulate and be due upon said tax at the rate of one percent (1%) per thirty (30) day period or fraction thereof. (Ord. 1995-M-19 § 1.)

### **3.32.070 Claims to recover erroneously paid tax.**

- A. **The Filing of Claims.** Where an operator pays hotel operators' tax to the comptroller in error, either as a result of a mistake of fact or an error of law, the operator may file a claim with the comptroller upon a form which the comptroller prescribes and will issue on request.
- B. **Bearing the Burden of the Tax.** In addition to proving that he did not owe the tax for which recovery is sought, the claimant must also prove that he bore the burden of the amount of such tax, either by not shifting the burden of the tax to anyone else in the first instance, or by unconditionally refunding any amounts passed on because of the tax to his customers, who bore the burden thereof.
- C. **Statute of Limitations.** As to any claim filed with the comptroller on and after each January 1st and July 1st, no amount of tax or penalty erroneously paid (either in total or partial liquidation of a tax or penalty) under this chapter more than three years prior to such January 1st and July 1st, respectively, shall be credited or refunded.
- D. **Credit Memorandum or Refund.** When any claim is allowed, the City Council may issue a credit memorandum to the claimant for the amount so allowed or refund such amount in such manner as the City Council shall determine or as set forth in Section 3.32.070 (E) below.
- E. **Refunds.** In case the City Council determines that the claimant is entitled to a refund, such refund shall be made only from such budgeted amount as may be available for that purpose. If it appears unlikely that the amount budgeted would permit everyone having a claim allowed during the period covered by such budgeted amount to elect to receive a cash refund, the City Council will make such refunds only in hardship cases (i.e., in cases in which the claimant cannot use a credit memorandum.)

## HOTEL OPERATORS' OCCUPATION TAX

(Ord. 1995-M-19 § 1; Ord. 1986-M-27 § 1; Ord. 1983-M-17 § 1 (part).)

### **3.32.075 Proceeds.**

All proceeds resulting from the imposition of the tax under this chapter, including interest and fines, shall be paid into the treasury of the City of St. Charles and shall be credited to and deposited in the general fund of the City. These funds shall be distributed as follows:

- A. 51.73% of the total receipts for Municipal Hotel Operator's Occupation Tax, excluding Arthur Anderson, d/b/a the Q-Center, shall be distributed to the St. Charles Convention and Visitors Bureau.
- B. 1.7% of the total receipts for Municipal Hotel Operator's Occupation Tax, excluding Arthur Anderson, d/b/a the Q-Center, shall be distributed to the Pride of the Fox Festival Committee.
- C. 7.27% of the total receipts for Municipal Hotel Operator's Occupation Tax, excluding Arthur Anderson, d/b/a the Q-Center, shall be distributed to the St. Charles Cultural Commission.
- D. The balance of the receipts for Municipal Hotel Operator's Occupation Tax, including Arthur Anderson, d/b/a the Q-Center, shall be deposited in the general fund of the City.

(Ord. 2004-M-48 § 1; Ord. 2003-M-46 § 1; Ord. 2002-M-22 § 2; Ord. 2000-M-9 § 2; Ord. 1995-M-19 § 1.)

### **3.32.080 Separability.**

If any provision, clause, sentence, paragraph, section, or part of this chapter, or application thereof to any person, firm, corporation, public agency or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this chapter and the application of such provision to other persons, firms, corporation, public agencies or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment has been rendered and to the person, firm, corporation, public agency, or circumstances involved. It is hereby declared to be the legislative intent of the City Council that this chapter would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section, or part thereof not been included. (Ord. 1995-M-19 § 1; Ord. 1986-M-27 § 1; Ord. 1983-M-17 § 1 (part); Ord. 1982-M-65 § 1 (part).)

**HOME RULE MUNICIPAL RETAILERS' AND SERVICE OCCUPATION TAX**

Chapter 3.36

**HOME RULE MUNICIPAL RETAILERS' AND SERVICE OCCUPATION TAX**

Sections:

3.36.010	Tax Imposed
3.36.020	Collection - Payment
3.36.030	Filing
3.36.040	Effective Date

**3.36.010 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 percent (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 one percent (1%) of the selling price of all tangible personal property transferred by such serviceman either in the form of tangible personal property or in the form of real estate as an incident to a sale of service.

Such "Home Rule Municipal Retailers' Occupation Tax" and the "Home Rule Municipal Service Occupation Tax" shall not be applicable to the sale 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.

The imposition of those home rule taxes are in accordance with the provisions of Section 8-11-1 and 8-11-5, respectively, of the "Illinois Municipal Code" (65 ILCS 5/8-11-1 and 5/8-11-5 (1992 State Bar Edition)).

(Ord. 2004-M-21 § 1; Ord. 1997-M-95 § 1; Ord. 1994-M-64 § 1.)

**3.36.020 Collection - Payment.**

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. (Ord. 1994-M-64 § 1.)

**3.36.030 Filing.**

The City Clerk is hereby directed to file a certified copy of this ordinance on or before the first day of October, 1994. (Ord. 1994-M-64 § 1.)

**3.36.040 Effective date.**

This ordinance shall take effect on the first day of January next following the adoption and filing of this ordinance with the Department of Revenue. (Ord. 1994-M-64 § 1.)

**Chapter 3.38**

**YARD WASTE USER FEE**

Sections:

3.38.010	User Fee
3.38.020	Exemptions
3.38.030	Filing
3.38.040	Effective Date
3.38.045	Disconnect Notice Fee
3.38.050	Right of Cut-Off for Nonpayment – Reconnection
3.38.060	Definitions

**3.38.010 User Fee.**

A user fee is hereby imposed upon single family residences or any building that contains six or fewer dwelling units, whether they be occupied or not, in the amount of \$3.40 each month. (Ord. 2012-M-7 § 1; Ord. 2011-M-17 § 1; Ord. 2010-M-34 § 1; Ord. 2003-M-58 § 1; Ord. 2002-M-21 § 1; Ord. 2001-M-28 § 1; Ord. 1999-M-2 § 1.)

**3.38.020 Exemptions.**

Specifically exempted from the application of this ordinance are apartment buildings containing seven or more units and residential developments with privately maintained streets. Further exemptions may be granted by the City Administrator or his designee should an aggrieved person file a written claim for exemption with the City Administrator’s Office. (Ord. 1999-M-2 § 2.)

**3.38.030 Filing.**

The City Clerk is hereby directed to file a certified copy of this Ordinance on or before the 1<sup>st</sup> day of July, 1998.

**3.38.040 Effective Date.**

This Ordinance shall take effect on the first day of July 1998.

**3.38.045 Disconnect Notice Fee**

If it is determined that a notice of disconnection of service shall be issued to a customer due to utility charges being over 30 days past due, a payment being returned unpaid by a bank, a deposit not being paid by the due date, and/or a violation of the terms of this Code, an additional fee (a disconnect notice fee) will be charged. This fee will escalate based on the number of disconnect notices previously issued to the customer in the last twelve months. The disconnect notice fee schedule is \$20.00 for the first notice, \$35.00 for the second notice, and \$50.00 for any subsequent notices. (Ord. 2011-M-48 § 1.)

**3.38.050 Right of cut-off for nonpayment – Reconnection.**

A. The City shall have the right of discontinue any utility service provided to the customer on due notice and to remove its property from the customer’s premises whenever monthly City bills, or a portion

## YARD WASTE USER FEE

thereof, remain unpaid for 30 days after the due date specified, or in case the customer fails to comply with, or perform, any of the conditions or obligations of this chapter.

- B. A customer's service so discontinued shall be connected after the customer has made settlement for City utility bills in arrears, plus any current amount outstanding at the City Clerk's office, or has, to the City's satisfaction, complied with or performed such other conditions or obligations which were in default, as the case may be. A minimum fee shall be charged equal to two times one and one-half the midpoint of the wage rate for a meter technician at the time of reconnection. In the event the City incurs expense for labor in excess of the average cost of reconnection, the City may charge that additional cost for disconnection and reconnection to the customer.

(Ord. 2010-M-6 § 1.)

### **3.38.060 Definitions.**

- A. Utility Services – Electric, water, sewer, yard waste, and refuse services that are provided by the City or its designated provider.

(Ord. 2010-M-11 § 1.)

## Chapter 3.40

**TELECOMMUNICATIONS TAX**

## Sections:

3.40.010	Imposition.
3.40.020	Definitions.
3.40.030	Resellers of Telecommunications.
3.40.040	Returns; Filing, Contents, Payment of Tax.
3.40.050	Erroneous payment.
3.40.060	Books and Records of Retailer.
3.40.070	Failure to Make Return or Fraudulent Return.
3.40.080	Action to Recover Tax.

**3.40.010 Imposition.**

- A. A tax is imposed on the following acts or privileges:
1. The act or privilege of originating in the city of St. Charles or receiving in the city of St. Charles intrastate telecommunications by a person at the rate of five percent (5%) of the gross charge for such telecommunications purchased at retail from a retailer by such person. However, such tax is not imposed on such act or privilege to the extent such act or privilege may not, under the Constitution of the United States, be made the subject of taxation by municipalities in this state.
  2. The act or privilege of originating in the city of St. Charles or receiving in the city of St. Charles interstate telecommunications by a person at the rate of five percent (5%) of the gross charge for such telecommunications purchased at retail from a retailer by such person. To prevent actual multi-state taxation of the act or privilege that is subject to taxation under this paragraph, any taxpayer, upon proof that the taxpayer has paid a tax in another state on such event, shall be allowed a credit against any tax enacted pursuant to this paragraph to the extent of the amount of such tax properly due and paid in such other state which was not previously allowed as a credit against any other state or local tax in this state. However, such tax is not imposed on the 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 municipalities in this state.
- B. The tax authorized by this Section shall be collected from the taxpayer by a retailer maintaining a place of business in this state and making or effectuating the sale at retail and shall be remitted by such retailer to the city of St. Charles. Any tax required to be collected pursuant to an ordinance authorized by this section and any such tax collected pursuant to an ordinance authorized by this section and any such tax collected by such retailer shall constitute a debt owed by the retailer to the city of St. Charles. 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. The tax authorized by this

## ALCOHOL TAX

section shall constitute a debt of the purchaser to the retailer who provides such taxable services until paid, and if unpaid, is recoverable at law in the same manner as the original charge for such taxable services. If the retailer fails to collect the tax from the taxpayer, then the taxpayer shall be required to pay the tax directly to the city of St. Charles.

Whenever possible, the tax authorized by this section shall, when collected, be stated as a distinct item separate and apart from the gross charge for telecommunications.

(Ord. 2001-M-27 § 1; Ord. 2000-M-96 § 2; Ord. 1998-M-46 § 1; Ord. 1998-M-37 § 1.)

### **3.40.020 Definitions.**

For the purposes of the taxes authorized by this section:

- A. "Amount paid" means the amount charged to the taxpayer's service address in the city of St. Charles regardless of where such amount is billed or paid.
- B. "Gross charge" means the amount paid for the act or privilege of originating or receiving telecommunications in the city of St. Charles and for all services rendered in connection therewith, valued in money whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without 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. However, "gross charge" shall not include:
  - 1. Any amounts added to a purchaser's bill because of a charge made pursuant to (i) the tax imposed by this section; (ii) additional charges added to a purchaser's bill pursuant to Section 9-222 of the Public Utilities Act; (iii) the tax imposed by the Telecommunications Excise Tax Act; or (iv) the tax imposed by Section 4251 of the Internal Revenue Code;
  - 2. Charges for a sent collect telecommunications received outside municipal boundaries of the city of St. Charles.
  - 3. Charges for leased time on equipment or charges for the storage of data or information or subsequent retrieval or the processing of data or information intended to change its form or content. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment, or accounting equipment and also includes the usage of computers under a time-sharing agreement;
  - 4. Charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are segregated and separately identified from other charges;
  - 5. Charges to business enterprises certified under Section 9-222.1 of the Public Utilities Act to the extent of such exemption and during the period of time specified by the Department of Commerce and Community Affairs;
  - 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 section 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 corporation and not the generation of profit for the corporation rendering such service;

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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); or
  8. Charges paid by inserting coins in coin-operated telecommunication devices.
- C. “Interstate telecommunications” means all telecommunications that either originate or terminate outside this State.
  - D. “Intrastate telecommunications” means all telecommunications that originate and terminate within this State.
  - E. “Person” means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, 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.
  - F. “Purchase at retail” means the acquisition, consumption or use of telecommunications through a sale at retail.
  - G. “Retailer” means and includes every person engaged in the business of making sales at retail as defined in this Section. The city of St. Charles may, 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 city, 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 the city in the same manner and subject to the same requirements as a retailer maintaining a place of business within the city.
  - H. “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.
  - I. “Sale at retail” means the transmitting, supplying or furnishing of telecommunications and all services rendered in connection therewith for a consideration, to persons other than the Federal and State governments, and State universities created by statute and other political subdivisions of this State, and between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the tax has already been paid to a retailer and the gross charges made by one such corporation to another corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for resale.

- J. "Service address" means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received by a taxpayer. If this is not a defined location, as in the case of mobile phones, paging systems, maritime systems, 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.
- K. "Taxpayer" means a person who individually or through his agents, employees or permittees, engages in an act or privilege of originating in the city of St. Charles or receiving in the city of St. Charles telecommunications and who incurs a tax liability under any ordinance authorized by this Section.
- L. "Telecommunications," in the addition to the usual and popular meaning includes, but is not limited to, messages or information transmitted through use of local, toll and wide area telephone service, channel services, telegraph services, telewriter services, computer exchange services, cellular mobile telecommunications service, specialized mobile radio services, 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. 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 purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by him 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 used as a component of, or integrated into, end-to-end telecommunications service shall be non-taxable as sales for resale.
- M. "City" means the city of St. Charles, Illinois, a municipal corporation.  
(Ord. 1998-M-37 § 1.)

**3.40.030 Resellers of Telecommunications.**

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

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

Except as provided hereinabove in this Section, the act or privilege of sending 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 for the city of St. Charles 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 for resale.

(Ord. 1998-M-37 § 1.)

**3.40.040 Returns; Filing, Contents, Payment of Tax.**

- A. On or before the last day of July 1998, each retailer shall make a return to the City Treasurer for the month of June, stating:
  - 1. Its name;

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2. Its principal place of business;
  3. The gross charges during those months upon the basis of which the tax is imposed;
  4. Amount of tax;
  5. Such other reasonable and related information as the city may require.
- B. On or before the last day of every month thereafter, each retailer shall make a like return to the City Treasurer for a corresponding one (1) month period.
- C. The retailer making the return herein provided for shall, at the time of making such return, pay to the City Treasurer the amount of tax herein imposed; provided that in connection with any return the retailer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings and the taxable gross charges.

(Ord. 1998-M-37 § 1.)

### **3.40.050 Erroneous payment.**

If it shall appear that an amount of tax has been paid which was not due under the provisions of this ordinance, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this ordinance from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than three years prior to the filing of a claim therefor shall be so credited. (Ord. 1998-M-37 § 1.)

### **3.40.060 Books and Records of Retailer.**

Every retailer under this Ordinance shall keep books, records and other documents which are adequate to reflect that the tax imposed by this Ordinance is being collected in the proper amount. All books and records and other papers and documents required by this Ordinance to be kept shall, at all times during business hours of the day, be subject to inspection by the City or its duly authorized agents and employees. Books and records reflecting gross charges during any period with respect to which the tax is imposed shall be preserved until the expiration of three years following the period the tax was incurred, unless the city, in writing, authorizes their destruction or disposal at an earlier date. (Ord. 1998-M-37 § 1.)

### **3.40.070 Failure to Make Return or Fraudulent Return.**

Any retailer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Ordinance, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars and, in addition, shall be liable in a civil action for the amount of tax due, plus attorney's fees, costs and prejudgment interest. (Ord. 1998-M-37 § 1.)

### **3.40.080 Action to Recover Tax.**

No action to recover any amount of the tax due under the provisions of this Ordinance shall be commenced more than three (3) years after the due date of such amount. (Ord. 1998-M-37 § 1.)

Chapter 3.42  
**ALCOHOL TAX**

Sections:

3.42.010	Title.
3.42.020	Definitions.
3.42.030	Imposition of tax.
3.42.040	Liability for payment.
3.42.050	Collection.
3.42.060	Notices.
3.42.070	Rules and regulations.
3.42.080	Filing of return; payment of tax.
3.42.090	Late payment and/or filing; failure to pay and/or file.
3.42.100	Schedule of certain rates.
3.42.110	Records.
3.42.120	Exemptions.
3.42.130	Suspension of revocation of licenses for failure to pay tax; hearing.
3.42.140	Disposition of proceeds.
3.42.150	Notice of tax liability; demand for payment of tax; period of limitations; suit.
3.42.160	Hearings.
3.42.170	Preparation; service of citations.

**3.42.010 Title.**

This chapter shall be known and cited as the "St. Charles Alcohol Tax Ordinance". The tax imposed in this chapter shall be known and cited as the "St. Charles Alcohol Tax".

**3.42.020 Definitions.**

For the purposes of this chapter whenever any of the following words, terms or phrases are used, they shall have the meaning ascribed to them in this section.

- A. Alcoholic liquor is defined in the same manner as the term is defined in section 5.08.010 of this code.
- B. Liquor establishment means any premises required to obtain a retail liquor license pursuant to chapter 5.08 of this code.
- C. Owner means any person having a sufficient proprietary interest in conducting the operation of a restaurant or liquor establishment so as to entitle such a person to all or a portion of the net receipts thereof.
- D. Person means any natural person, 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 means the owners or part-owners thereof, and as applied to corporations, the officers thereof.

**3.42.030 Imposition of tax.**

- A. There is levied and imposed upon the privilege of purchasing alcoholic liquor served or prepared at a liquor establishment in the city, a tax of two percent (2%) of the purchase price, exclusive of any other tax imposed on such alcoholic liquor.
- B. There is levied and imposed upon the privilege of purchasing alcoholic liquor in original packages only for consumption off the premises at retail at any liquor establishment in the city, a tax of two percent (2%) of the purchase price, exclusive of any other tax imposed on such alcoholic liquor at retail.

**3.42.040 Liability for payment.**

- A. The ultimate incidence of and liability for payment of the tax imposed by this chapter shall be borne by the person who seeks the privilege of purchasing alcoholic liquor served at such liquor establishment or the privilege of purchasing alcoholic liquor at retail at any liquor establishment, such person hereinafter referred to as "consumer."
- B. The tax levied in this chapter shall be paid in addition to any and all other taxes and charges. It shall be the duty of the owner, manager or operator of every liquor establishment to collect the tax from the consumer and pay the tax to the city under the rules and regulations prescribed by the mayor and as otherwise provided in this chapter.

**3.42.050 Collection.**

Every person required to collect the tax levied by this chapter shall collect the tax from the consumer at the time he collects payment for the service of alcoholic liquor or the sale of alcoholic liquor at retail. The amount due under the tax imposed in this chapter shall be stated separately on the invoice receipt or other statement or memorandum of the payment given to the consumer at the time of payment.

**3.42.060 Notices.**

Any notice or other written communication from the city regarding the tax imposed by this chapter shall be sent to the owner at the address provided in the liquor license application form.

**3.42.070 Rules and regulations.**

The mayor of the city may promulgate rules and regulations not inconsistent with the provisions of this chapter concerning the enforcement and application of this chapter. The term "rules and regulations" includes, but is not limited to, a case-by-case determination whether or not the tax imposed by this chapter applies.

**3.42.080 Filing of return; payment of tax.**

The owner of each liquor establishment within the city shall file tax returns showing tax receipts received during each monthly period on forms prescribed by the mayor. The returns shall be due on or before the last day of the calendar month next succeeding the end of the monthly filing period.

At the time of filing such returns, the owner shall pay to the city all taxes due for the period to which the tax return applies, less a commission of one percent (1%) of the amount of the tax, which is allowed to reimburse the owner for the expenses incurred in keeping records, billing, preparing and filing returns, remitting the tax and supplying data to the city upon request. No commission may be claimed by an owner for taxes not timely remitted to the city.

**3.42.090 Late payment and/or filing; failure to pay and/or file.**

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- A. If for any reason a tax imposed under this chapter is not paid when due, a penalty of five percent (5%) on the amount of tax which remains unpaid shall be added and collected. Whenever any person shall fail to pay any tax as provided in this chapter, the city attorney upon the request of the finance director shall bring or cause to be brought an action to enforce the payment of the tax on behalf of the city in any court of competent jurisdiction.
- B. If no return is filed or tax paid before the Finance Director issues a notice of tax liability under section 3.42.150, a penalty of twenty-five percent (25%) of the full amount of tax claimed due shall be added thereto. If a penalty is assessed under this subsection, no penalty shall be assessed under subsection A.

### **3.42.100 Interest.**

Interest shall accrue on any late payment, underpayment or nonpayment of tax at the rate of one and one-quarter percent (1.25%) added per month to the amount of tax unpaid and uncollected.

### **3.42.110 Records.**

- A. Every owner, manager or operator of a liquor establishment in the city shall keep books and records for a period of at least forty-eight (48) months, unless otherwise authorized by the city, which at a minimum shall include a daily sheet showing:
  - 1. The amount of taxable receipts within the twenty-four-hour period;
  - 2. The actual liquor establishment tax receipts collected for the date in question.
- B. The mayor or his designee shall at all reasonable times have full access to such books and records.
- C. To the fullest extent permitted by law, the financial records of any liquor establishment submitted pursuant to this chapter or any rule and regulation promulgated thereunder shall not be available for public inspection in order to protect the owners' right to privacy.

### **3.42.120 Exemptions.**

The tax imposed under this chapter shall not apply to or be imposed upon any federal, state or local governmental bodies.

### **3.42.130 Suspension or revocation of licenses for failure to pay tax; hearing.**

If the mayor or other city official responsible for the issuance of a city license, permit or other approval, including, but not limited to, a liquor license, after hearing held by or for him, shall find that any person has willfully evaded payment or collection and remittance of the tax imposed by this chapter, he may suspend or revoke such city license, permit or other approval held by such tax evader. The person shall have an opportunity to be heard at such hearing to be held not less than seven (7) days after notice is given to him of the time and place of the hearing to be held, addressed to him at his last known place of business. Pending said notice, hearing and finding, any license, permit or other approval issued by the city to the person may be temporarily suspended. No suspension or revocation hereunder shall release or discharge said person from his civil liability for the payment or collection and remittance of the tax, nor from prosecution for such offense. Notwithstanding the foregoing, any suspension or revocation of a liquor license shall follow the procedures set forth in, and otherwise comply with, the provisions of chapter 5.08 of this code.

### **3.42.140 Disposition of proceeds.**

All proceeds resulting from the imposition of the tax under this chapter, including penalties, shall be paid into the treasury of the city, and shall be credited to and deposited in the corporate fund of the city.

### **3.42.150 Notice of tax liability; demand for payment of tax; period of limitation; suit.**

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- A. In the event any person fails to file a return when and as herein required, or if it shall appear to the Finance Director that the amount of any tax payment is incorrect in that it does not include all taxes payable for such calendar period, or if the Finance Director shall find that the collection of any taxes which have accrued but are not yet due will be jeopardized by delay, and declares said taxes to be immediately due and payable, or if it shall appear to the Finance Director that he had made any final assessment which did not include taxes payable for the periods involved, or if it appears to the Finance Director that any person has, by reason of any act or omission or by operation of any law, become liable for any taxes, interest or penalties not originally incurred by him, the Finance Director may in any of the above events determine and assess the amount of such taxes or deficiency, as the case may be, together with the interest and penalties due and unpaid. Any such determination and assessment shall be made by the Finance Director upon his best judgment and information, and it shall be permissible for the Finance Director to show a figure that represents the tax due for any given six (6) months instead of showing the amount of tax due for each month separately. The Finance Director shall immediately serve notice of tax liability upon such person and make a demand for payment of the tax together with interest and penalties thereon. If the person incurring any such liability has died, such demand may at the discretion of the Finance Director be made against his personal representative. Such determination and assessment by the Finance Director shall be final at the expiration of forty-five (45) days from date of the service of such written notice thereof and demand for payment, unless such person shall have filed with the Finance Director a written petition pursuant to section 3.42.160, specifying its objections thereto.
- B. The Finance Director may amend his determination and assessment at any time before it becomes final. In the event of such amendment the person affected shall be given notice and an opportunity to be heard in connection therewith.
- C. Except with the consent of the person to whom the notice of the tax liability, assessment or other determination is to be issued, or in the case of any amended return (which a notice of tax liability or assessment may be issued for an amended return filed not more than four (4) years prior to the date of such amended return), no notice of tax liability, assessment or other determination shall be issued covering the amount of tax due for any month or period of time more than four (4) years prior to the date of such tax liability, assessment, or other determination of taxes due. Notwithstanding the foregoing, in the event a tax return is not filed, or if during any four (4) year period for which a notice of tax liability, assessment or other determination may be issued, the tax paid was less than 75% of the tax due, the statute of limitations shall be six (6) years after the end of the calendar year in which the return for the applicable period was due or end of the calendar year in which the return for the applicable period was filed. No statute of limitations shall apply if a fraudulent tax return is filed.
- D. Whenever any person shall fail to pay any tax herein provided, the city attorney shall, upon the request of the Finance Director, bring or cause to be brought, an action to enforce the payment of the tax on behalf of the city in any court of competent jurisdiction. Such action shall be in addition to any other remedy afforded the city under this chapter or under any other law, including a prosecution for violation of this chapter.

### **3.42.160 Hearings.**

- A. Any person issued a notice of tax liability pursuant to section 3.42.150, or otherwise aggrieved by any determination of the Finance Director made pursuant to this chapter, shall have the right to seek a redetermination by the Finance Director, subject to the provisions stated herein below.

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- B. Any person seeking a redetermination by the Finance Director shall file a written petition for redetermination within forty-five (45) days after receipt of the applicable notice. The petition must be received by the Finance Director or in the Finance Department prior to the expiration of the forty-five (45)-day period, or on the first date the Finance Department is open for business after such date if closed on such date. Mailing such petition on such date shall be insufficient. If the petition is not filed within this time period, then the determination of the Finance Director shall become final and not subject to further review, and the Finance Director may proceed with enforcement as provided under this chapter.
- C. The petition shall state the reason or reasons why the determination by the Finance Director is incorrect or invalid, as the case may be, and state the relief sought from the Finance Director. Upon receipt of the petition, the Finance Director shall promptly set a time and date for a hearing on the petition and shall notify the petitioner of the same not less than fourteen (14) days prior to the date set for hearing. A hearing date may be continued by the Finance Director for any reason provided for in this chapter, or for other good cause. All such hearings shall be held in the City Hall, if feasible.
- D. At such hearing, the Finance Director shall give the petitioner an opportunity to be personally heard and present whatever information or witnesses as he considers pertinent and relevant to the issue. Upon conclusion of such hearing, and after consideration of any information presented by the petitioner and such other information as may be available to the Finance Director, a decision shall be made by the Finance Director either cancelling, increasing, modifying, or affirming such determination, and notice of such decision shall be given in writing to the petitioner. Such notice shall contain a statement by the Finance Director of the cost of the certification of the record computed at the rate of five cents (\$0.05) per one hundred (100) words, which cost shall be charged to the petitioner if the determination or assessment is affirmed. The record shall consist of the notices and demands caused to be served by the Finance Director, the original determination and/or assessment of the Finance Director, the written petition for redetermination, the information and exhibits introduced at such hearing or certified copies thereof, the decisions of the Finance Director and such other documents filed in the proceeding.
- E. The decision of the Finance Director reached at the conclusion of such hearing shall be final, and the Finance Director may enforce such decision in the manner provided for under this chapter or such other manner as may be available by law.

### 3.42.170 **Preparation; service of citations.**

The Finance Director and his designees are deemed peace officers and may prepare and serve citations personally or by certified mail for violations of this chapter.

(Ord. 2010-M-28 § 1.)

**(REPEALED)**

**3.44 Food and Beverage Tax  
(Ord. 2006-M-40 § 1.)**

Chapter 3.46

LUMBER TAX

Sections:

3.46.010	Tax Imposed
3.46.020	Definitions
3.46.030	Credit
3.46.040	Return of Tax Payer-Payment of Tax
3.46.050	Records
3.46.060	Interest
3.46.070	Separability

**3.46.010 Tax Imposed**

A tax is imposed upon all persons engaged in the City in the business of operating a lumberyard at a rate of two percent (2%) of the gross sales price of all lumber distributed from a location within the City. (Ord. 2005-M-14 § 1; Ord. 2004-M-80 § 1.)

**3.46.020 Definitions**

As used in this Chapter, unless the context otherwise requires:

- A. "Lumber" means wooden boards, planks, timbers, millwork products, molding, paneling, trusses, siding, plywood, particle board, pressed wood/board, oriented strand board, and any other similar wooden product(s).
- B. "Lumberyard" means any place within the City from which lumber is distributed.
- C. "Person" means any natural individual, firm partnership, association, joint stock company, joint venture, public or private corporation, limited partnership, limited liability company, or any other entity, or a receiver, executor, trustee, or conservator or other representative appointed by order of any court.
- D. "Distribution" of lumber means the act of delivering lumber from a lumberyard to a third party or the act of transferring lumber to another location. Distribution may occur on the premises of the lumberyard or through delivery to another location.

(Ord. 2005-M-14 § 1; Ord. 2004-M-80 § 1.)

**3.46.030 Credit**

Any person engaged in the business of operating a lumberyard and pays State and local sales tax on lumber sold shall receive a credit against the amount of tax due pursuant to this Chapter in an amount equal to the State and local sales tax actually received by the City for the sale of such lumber. In no event shall the credit be greater than the amount of tax due pursuant to this Chapter. (Ord. 2005-M-14 § 1; Ord. 2004-M-80 § 1.)

**3.46.040 Return of Tax Payer – Payment of Tax**

- A. Except as otherwise provided in this section, on or before the last day of each calendar month, every person engaged in the business of operating a lumberyard in this City during the preceding calendar month shall file a return with the Director of Finance, stating:
  - 1. The legal name of the person;
  - 2. The address of the principal place of business and the address of the principal place of business (if different) from which the person engages in the business of selling lumber in this City;
  - 3. The total amount of gross sales receipts received by the person during the preceding calendar month from orders taken, lumber delivered or selling lumber during such preceding calendar month;

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4. The amount of all credits to which the person is entitled;
  5. The amount of tax due;
  6. The amount of penalty due, if any;
  7. Such other reasonable information as the Director of Finance may require.
- B. If the person's average monthly tax liability due the City does not exceed One Hundred Dollars (\$100.00), the Director of Finance may authorize the person's returns to be filed on a quarter annual basis, with the return for January, February, and March of a given year being due by April 30th of such year; the return for April, May and June of a given year being due by July 31st of such year; the return for July, August and September of a given year being due by October 31st of such year, and the return for October, November and December of a given year being due by January 31st of the following year.
- C. If the person's average monthly tax liability due the City does not exceed Twenty Dollars (\$20.00), the Director of Finance may authorize his returns to be filed on an annual basis, with the return for a given year being due January 31st of the following year.
- D. Such quarterly and annual returns, as to form and substance, shall be subject to the same requirements as monthly returns.
- E. Notwithstanding any other provision of this Chapter concerning the time within which a person must file a return, in the case of any person who ceases to engage in a kind of business which makes the person responsible for filing returns under this Chapter, such person shall file a final return, under this Chapter, with the Director of Finance not more than one (1) month after discontinuing such business.
- F. Where the same person has more than one (1) business registered with the City under separate registrations under this Chapter, such person shall not file each return that is due as a single return covering all such registered businesses, but shall file separate returns for each such registered business.
- G. The person filing the return herein provided for shall, at the time of filing the return, pay to the Director of Finance the amount of tax due. All monies received by the Director of Finance, under the provisions of this Chapter, shall be paid into the City Treasury.
- (Ord. 2005-M-14 § 1; Ord. 2004-M-80 § 1.)

### 3.46.050 Records

- A. Every person engaged in the business of operating a lumberyard within the City shall keep books and records for a period of at least twenty-four (24) months, unless otherwise authorized by the City, which at a minimum shall include a daily sheet showing:
1. The amount of taxable receipts for the sale of lumber distributed from the lumberyard within the twenty-four month period;
  2. The actual tax receipts or legible copies thereof collected for the dates in question.
- B. The Mayor or the Mayor's designee shall at all reasonable times have full access to such books and records. Such records to be kept or stored at a location within the City.
- C. Any financial records submitted pursuant to this Chapter or any rule and regulation promulgated thereunder shall not be available for public inspection to the extent permitted by law.
- (Ord. 2005-M-14 § 1; Ord. 2004-M-80 § 1.)

**3.46.060 Interest**

In the event of failure by any person to pay to the Director of Finance the tax required hereunder within thirty (30) days after the same shall be due, interest shall accumulate and be due upon said tax at the rate of one and one-half percent (1-1/2 %) per thirty (30) day period or fraction thereof. (Ord. 2005-M-14 § 1; Ord. 2004-M-80 § 1.)

**3.46.070 Separability**

If any provision, clause, sentence, paragraph, section, or part of this Chapter, or application thereof to any person, firm, corporation, public agency or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this Chapter and the application of such provision to other persons, firms, corporation, public agencies or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment has been rendered and to the person, firm, corporation, public agency, or circumstances involved. It is hereby declared to be the legislative intent of the corporate authorities of the City that this Chapter would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section, or part thereof not been included. (Ord. 2005-M-14 § 1; Ord. 2004-M-80 § 1.)

# CABLE AND VIDEO SERVICE PROVIDER FEE AND PEG ACCESS SUPPORT FEE

## Chapter 3.48

### CABLE AND VIDEO SERVICE PROVIDER FEE AND PEG ACCESS SUPPORT FEE

#### Sections:

3.48.001.	Definitions.
3.48.002.	Cable AND Video Service Provider Fee Imposed.
3.48.003.	PEG Access Support Fee Imposed.
3.48.004.	Applicable Principles.
3.48.005.	No Impact on Other Taxes Due from Holder.
3.48.006.	Audits of Cable and video Service Providers.
3.48.007.	Late Fees; Payments.
3.48.008.	Severability.

#### **3.48.001. DEFINITIONS.**

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

- A. “Cable service” means that term as defined in 47 U.S.C. § 522(6).
- B. “Commission” means the Illinois Commerce Commission.
- C. “Gross revenues” means all consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the holder for the operation of a cable or video system to provide cable service or video service within the holder’s cable service or video service area within the City.

Gross revenues shall include the following:

Recurring charges for cable or video service.

Event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges.

Rental of set top boxes and other cable service or video service equipment.

Service charges related to the provision of cable service or video service, including but not limited to activation, installation, and repair charges.

Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.

Late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments.

A *pro rata* portion of all revenue derived by the holder or its affiliates pursuant to compensation arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of the holder’s network to provide cable service or video service within the City. The allocation shall be based on

## **CABLE AND VIDEO SERVICE PROVIDER FEE AND PEG ACCESS SUPPORT FEE**

the number of subscribers in the City divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.

Compensation received by the holder that is derived from the operation of the holder's network to provide cable service or video service with respect to commissions that are received by the holder as compensation for promotion or exhibition of any products or services on the holder's network, such as a "home shopping" or similar channel, subject to this Chapter..

In the case of a cable service or video service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the holder's revenue attributable to the other services, capabilities, or applications shall be included in the gross revenue unless the holder can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.

The service provider fee permitted by 220 ILCS 5/21-801(b).

2. Gross revenues do not include any of the following:

Revenues not actually received, even if billed, such as bad debt, subject to 220 ILCS 5/21-801(c)(1)(vi).

Refunds, discounts, or other price adjustments that reduce the amount of gross revenues received by the holder of the State-issued authorization to the extent the refund, rebate, credit, or discount is attributable to cable service or video service.

Regardless of whether the services are bundled, packaged, or functionally integrated with cable service or video service, any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunication services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing or any other revenues attributed by the holder to noncable service or nonvideo service in accordance with the holder's books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards, or orders.

The sale of cable services or video services for resale in which the purchaser is required to collect the service provider fee from the purchaser's subscribers to the extent the purchaser certifies in writing that it will resell the service within the City and pay the fee permitted by 220 ILCS 5/21-801(b) with respect to the service.

Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, State, federal, or any other governmental entity and collected by the holder of the State-issued authorization and required to be remitted to the taxing entity, including sales and use taxes.

Security deposits collected from subscribers.

Amounts paid by subscribers to "home shopping" or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.

3. Revenue of an affiliate of a holder shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate rather than the holder has the effect of evading the payment of the fee permitted by 220 ILCS 5/21-801(b) which would otherwise be paid by the cable service or video service.

## **CABLE AND VIDEO SERVICE PROVIDER FEE AND PEG ACCESS SUPPORT FEE**

D. “Holder” means a person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

E. “PEG” means public, education and governmental.

F. “PEG access support fee” means the amount paid pursuant to this Chapter and 220 ILCS 5/21-801(d) by a holder to the City for the service area(s) within the corporate limits thereof.

G. “Service” means the provision of “cable service” or “video service” to subscribers and the interaction of subscribers with the person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

H. “Service provider fee” means the amount paid pursuant to Chapter and 220 ILCS 5/21-801 by a holder to the City for the service area(s) within the corporate limits thereof.

I. “Video service” means video programming and subscriber interaction, if any, that is required for the selection or use of such video programming services, and which is provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d) or any video programming provided solely as part of, and via, service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

### **3.48.002 Cable AND Video Service Provider Fee Imposed.**

A. Fee Imposed. A fee is hereby imposed on any holder providing cable service or video service in the City.

B. Amount of Fee. The amount of the fee imposed hereby shall be five percent (5%) of the holder’s gross revenues.

C. Notice to the City. The holder shall notify the City at least ten (10) days prior to the date on which the holder begins to offer cable service or video service in the City.

D. Holder’s Liability. The holder shall be liable for and pay the service provider fee to the City. The holder’s liability for the fee shall commence on the first day of the calendar month following thirty (30) days after receipt of the ordinance adopting this Chapter by the holder. The ordinance adopting this Chapter shall be sent by mail, postage prepaid, to the address listed on the holder’s application notice sent pursuant to 220 ILCS 5/21-401(b)(6) to the City.

E. Payment Date. The payment of the service provider fee shall be due on a quarterly basis, forty-five (45) days after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

F. Exemption. The fee hereby imposed does not apply to existing cable service or video service providers that have an existing franchise agreement with the City in which a fee is paid.

G. Credit for Other Payments. An incumbent cable operator that elects to terminate an existing agreement pursuant to 220 ILCS 5/21-301(c) with credit for prepaid franchise fees under that agreement may deduct the amount of such credit from the fees that operator owes pursuant to Section 3.48.002(B).

## **CABLE AND VIDEO SERVICE PROVIDER FEE AND PEG ACCESS SUPPORT FEE**

### **3.48.003. PEG Access Support Fee Imposed.**

A. PEG Fee Imposed. A PEG access support fee is hereby imposed on any holder providing cable service or video service in the City in addition to the fee imposed pursuant to Section 5.50.002 herein.

B. Amount of Fee. The amount of the PEG access support fee imposed hereby shall be one percent (1%) of the holder's gross revenues or, if greater, the percentage of gross revenues that incumbent cable operators pay to the City or its designee for PEG access support in the City.

C. Payment. The holder shall pay the PEG access support fee to the City or to the entity designated by the City to manage PEG access. The holder's liability for the PEG access support fee shall commence on the date set forth in Section 3.48.002(D).

D. Payment Due. The payment of the PEG access support fee shall be due on a quarterly basis, forty-five (45) days after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

E. Credit for Other Payments. An incumbent cable operator that elects to terminate an existing agreement pursuant to 220 ILCS 5/21-301(c) shall pay, at the time they would have been due, all monetary payments for PEG access that would have been due during the remaining term of the agreement had it not been terminated pursuant to that section. All payments made by an incumbent cable operator pursuant to the previous sentence may be credited against the fees that the cable operator owes pursuant to Section 3.48.005(B).

### **3.48.004. Applicable Principles.**

All determinations and calculations pursuant to this Chapter shall be made in accordance with generally accepted accounting principles.

### **3.48.005. No Impact on Other Taxes Due from Holder.**

Nothing contained in this Chapter shall be construed to exempt a holder from any tax that is or may later be imposed by the City, including any tax that is or may later be required to be paid by or through the holder with respect to cable service or video service. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the City's simplified municipal telecommunications tax or any other tax as it applies to any telephone service provided by the holder. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the local unit of government's 911 or E911 fees, taxes or charges.

## **CABLE AND VIDEO SERVICE PROVIDER FEE AND PEG ACCESS SUPPORT FEE**

### **3.48.006. Audits of Cable and video Service Providers.**

A. Audit Requirement. The City will notify the holder of the requirements it imposes on other cable service or video service providers to submit to an audit of its books and records. The holder shall comply with the same requirements the City imposes on other cable service or video service providers in its jurisdiction to audit the holder's books and records and to recompute any amounts determined to be payable under the requirements of the City. If all local franchises between the City and cable operator terminate, the audit requirements shall be those adopted by the City pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.* No acceptance of amounts remitted should be construed as an accord that the amounts are correct.

B. Additional Payments. Any additional amount due after an audit shall be paid within thirty (30) days after the City's submission of an invoice for the sum.

### **3.48.007. Late Fees; Payments.**

All fees due and payments which are past due shall be governed by ordinances adopted by the City pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.*

### **3.48.008. Severability.**

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

(Ord. 2008-M-8 § 2.)

Chapter 3.50

**HOUSING TRUST FUND**

Sections:

3.50.010	Definitions
3.50.020	Housing Trust Fund Established
3.50.030	Housing Commission Responsibilities
3.50.040	Eligibility Requirements
3.50.050	Review and Approval of Applications and Programs
3.50.060	Conditions
3.50.070	Sources of Funds

**3.50.010 Definitions**

- A. Rules of interpretation. The words and phrases used in this Chapter shall be interpreted to have the meanings ascribed to them herein. To the extent that words or phrases not defined herein are defined in the Zoning Ordinance (Title 17 of the St. Charles Municipal Code), such words or phrases shall be deemed to have the meanings set forth therein. Otherwise, words and phrases shall be interpreted in their commonly used sense as set forth in Webster’s Third International Dictionary (most recent edition), unless the context reasonably requires another construction.
  
- B. Definitions. The following words and phrases, when used in this Chapter, shall have the following meanings:
  - 1. Affordable Housing: Housing that has a sales price or rental amount that is within the means of an “Eligible Household” as defined herein. In the case of dwelling units for sale, housing that is affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit. In the case of dwelling units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit.
  - 2. Applicant: An applicant is any individual or entity, including but not limited to developers, not-for-profit organizations, housing owner/operators, and units of government that applies for a grant, loan, or other resources from the Housing Trust Fund.
  - 3. Eligible Activities: Eligible Activities shall include those activities that are eligible to receive funding or other resources from the Housing Trust Fund, as set forth in section 3.50.040 (B) of this Chapter. (Ord. 2010-M-16 § 1.)
  - 4. Eligible Household: A household with in income at or below eighty percent (80%) of the Area Median Income (AMI) for for-sale units and at or below sixty percent (60%) of the AMI for rental units.

**3.50.020 Housing Trust Fund Established**

- A. Creation; Management and Administration. There is hereby established a Housing Trust Fund, to be held as a separate fund within the City, for the sole purpose of providing and preserving Affordable Housing opportunities within the City of St. Charles. The City, by and through its Director of Finance, shall be responsible for the day-to-day investment and fiscal maintenance and management

## HOUSING TRUST FUND

of the Housing Trust Fund. The day-to-day fiscal maintenance and management shall be undertaken pursuant to the approved investment policies and practices used by the City for other similarly held funds. Except for disbursements and other actions taken as part of the day-to-day fiscal maintenance and management of the Housing Trust Fund, the Director of Finance shall not disburse funds held by the Housing Trust Fund except upon the written direction of the City Council, by resolution duly adopted, or otherwise pursuant to the provisions of an approved program. The St. Charles Housing Commission, established by Section 2.25.010 of the St. Charles Municipal Code, shall assist the City Council with the organization, operation, and implementation of the Housing Trust Fund as set forth in Section 3.50.030 of this Chapter. (Ord. 2010-M-16 § 1.)

- B. Purpose. The purpose of the Housing Trust Fund is to provide sustainable financial resources to address the Affordable Housing needs of Eligible Households in St. Charles by preserving and producing Affordable Housing, providing housing-related financial support and services to Eligible Households, and providing financial support for not-for-profit organizations that actively address the Affordable Housing needs of Eligible Households.
- C. Distribution and Use of Housing Trust Fund. Distribution of funds from the Housing Trust Fund shall be in the form of grants or loans or such other funding mechanisms that support the purposes of the Housing Trust Fund. Any Housing Trust Fund money unused at the end of any year shall remain in the Housing Trust Fund for future Eligible Activities, pursuant to the requirements of this Chapter. (Ord. 2010-M-16 § 1.)

### **3.50.030 Housing Commission Responsibilities**

The Housing Commission shall make recommendations to the City Council regarding the following:

- 1. the goals for the use of Housing Trust Fund resources;
  - 2. the Housing Trust Fund's annual budget including projected expenditures and revenues;
  - 3. the procedures for reviewing applications and awarding Housing Trust Fund resources to Applicants;
  - 4. the criteria to be used by the Housing Commission, the City Council, and City staff in reviewing applications and programs that utilize Housing Trust Fund resources;
  - 5. the procedures to be used for disbursing Housing Trust Fund resources;
  - 6. the review of applications and programs for Housing Trust Fund awards;
  - 7. the procedures to be used to monitor Eligible Activities funded by the Housing Trust Fund to ensure that Housing Trust Fund resources are used in conformance with all applicable requirements; and
  - 8. the evaluation of Housing Trust Fund activities.
- (Ord. 2010-M-16 § 1.)

### **3.50.040 Eligibility Requirements**

- A. Purpose of Eligible Activity. Each Applicant shall be required to demonstrate that the requested Eligible Activity will advance and support the purpose of the Housing Trust Fund, as set forth in this Chapter.
- B. Eligible Activities. The use of Housing Trust Fund resources shall be limited to the following, which shall be considered Eligible Activities:
  - 1. Production of Affordable Housing including, without limitation, new construction, rehabilitation, and adaptive re-use.
  - 2. Acquisition and disposition, including, without limitation, vacant land, single-family homes, multi-unit buildings, and other existing structures that may be used in whole or part to provide Affordable Housing.
  - 3. Grants or loans to not-for-profit organizations that are actively engaged in addressing the housing needs of Eligible Households.

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4. Retention of a third-party organization to administer and track Housing Trust Fund programs and payment of a management fee as agreed upon between the City and the third-party organization.
5. Payments to a third-party organization to reimburse costs incurred in connection with a Housing Trust Fund program. Such costs shall include construction/rehabilitation costs, administrative costs such as property title searches and recording fees, and similar costs that are incurred in connection with an eligible project. No costs shall be reimbursed except pursuant to a written agreement between the City and the third-party organization.
6. Financial assistance to Eligible Households in renting dwelling units. Financial assistance to Eligible Households in purchasing dwelling units.
7. Financial or in-kind assistance to preserve and/or maintain existing Affordable Housing.
8. Weatherization of dwelling units occupied by Eligible Households.
9. Emergency repairs to dwelling units occupied by Eligible Households.

(Ord. 2010-M-16 § 1.)

- C. Criteria for Award of Housing Trust Fund Resources. Among applications for funding for Eligible Activities that otherwise meet established program requirements and eligibility criteria, priority shall be given (a) to applications that provide for leveraging of funds for projects, i.e., that yield a larger amount of housing provided or a larger dollar value for the level of funding being sought (b) to applications that provide the longest term of permanent affordability, and (c) to applications that provide housing to serve the needs of households with the lowest incomes. All Housing Trust Fund resources shall be applied exclusively to Eligible Activities within the City of St. Charles.

The City may approve additional criteria and priorities in connection with a specific program, as set forth in the document establishing that program.

(Ord. 2010-M-16 § 1.)

### **3.50.050 Review and Approval of Applications and Programs.**

The City Council shall be solely responsible for the approval of all programs and applications that utilize the expenditure of Housing Trust Funds. Applications for Housing Trust Fund awards shall be submitted to the Director of Community Development (or his or her designee). Applications/programs that comply with the applicable requirements shall be forwarded to the Housing Commission, and any applications/programs that do not comply shall be returned to the applicant with a written explanation of why the application will not be considered. The Commission shall review and make recommendations to the City Council as to which applications/programs are awarded Housing Trust Funds

The City Council may, at its discretion, approve a program that delegates the approval of applications and the dispersal of Housing Trust Fund moneys to the Housing Commission or Community Development Director (or His/Her Designee), provided that provisions for the disbursement of Housing Trust Fund moneys are specifically set forth within the scope of that program, and the program complies with the provisions of this Chapter.

(Ord. 2010-M-16 § 1.)

### **3.50.060 Conditions**

As a condition of any Housing Trust Fund award for any Eligible Activity, the Applicant shall execute and record such agreements, conditions, restrictive covenants, and other similar instruments, as may be required by the City to ensure that Housing Trust Fund resources will be used efficiently and for the intended purposes (“Conditions”). Among other requirements, the Conditions may bind the applicant and the property, if applicable, to the requirements of this Chapter and provide that all awards shall be used in strict compliance with the requirements of the City Code and the Conditions. The Conditions may also include a

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requirement that if the property or development is no longer being used for Affordable Housing pursuant to the requirements of the specific award, the Applicant or successor owner of the property or development shall be required to reimburse the Housing Trust Fund for up to 100 percent (100%) of the award, plus applicable interest.

### **3.50.70 Sources of Funds**

The City Administrator, for the benefit of the Housing Trust Fund, is authorized to accept funds, property, and other resources from all proper and lawful public and private sources including, without limitation, cash payments in lieu of constructing some or all of the on-site Affordable Units as required by Chapter 17.18.050 of the Inclusionary Housing chapter of the St. Charles Zoning Ordinance. The City Council, at its sole discretion, may make funds available to the Housing Trust Fund from the Corporate Fund, as it deems necessary and appropriate.

(2010-M-16 § 1; 2008-M-17 § 2.)

## TITLE 3 FOOTNOTES

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1. For statutory provisions of the fiscal year in municipalities, see 65 ILCS 5/1-1-2; for provisions on municipal finance, see 65 ILCS 5/8-1-1; for provisions authorizing municipal contracts, see 65 ILCS 5/2-2-12. (Ord. 1996-M-53 § 10.)
2. For statutory provisions on municipal retailer's occupation tax, see 65 ILCS 5/8-11-1.6 and 65 ILCS 5/8-11-1. (Ord. 1996-M-53 § 10.)
3. For statutory provisions on municipal service occupation tax, see 65 ILCS 5/8-11-1.7 and 65 ILCS 5/8-11-5. (Ord. 1996-M-53 § 10.)
4. For statutory provisions on municipal use tax, see 65 ILCS 5/8-11-6. (Ord. 1996-M-53 § 10.)
5. For statutory provisions on hotel/motel tax, see 35 ILCS 145/1. (Ord. 1996-M-53 § 10.)