

TITLE 3

REVENUE AND FINANCE

Chapters:

- 3.01 Service Occupation Tax
- 3.02 Retailers' Occupation Tax
- 3.03 Use Tax
- 3.04 Telecommunications Infrastructure Maintenance Fee
- 3.05 Local Taxpayer's Bill Of Rights and Responsibilities

Chapter 3.01

Service Occupation Tax

Sections:

- 3.01.01 Tax on Sales of Services
- 3.01.02 Monthly Reports
- 3.01.03 Payment of Tax

§3.01.01 Tax on Sales of Services. 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 of the cost price of all tangible personal property transferred by said servicemen either in the form of tangible personal property or in the form of real estate as an incident to a sale of service, in accordance with the provisions of the Municipal Service Occupation Tax Act, Illinois Revised Statutes Chapter 24, Section 8-11-5. (Ord. No. 69-5, 8-12-69)

§3.01.02 Monthly Reports. Every supplier or serviceman required to account for Municipal Service Occupation Tax for the benefit of this municipality shall file, on or before the last day of each calendar month, the report to the State Department of Revenue required by the Municipal Service Occupation Tax Act. (Ord. No. 69-5, 8-12-69)

§3.01.03 Payment of Tax. At the time such report is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed. (Ord. No. 69-5, 8-12-69)

Chapter 3.02

Retailers' Occupation Tax

Sections:

- 3.02.01 Tax on Commercial Sales of Personal Property
- 3.02.02 Monthly Reports
- 3.02.03 Payment of Tax

§3.02.01 Tax on Commercial Sales of Personal Property. A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property at retail in this Village at the rate of one percent of the gross receipts from such sales made in the course of such business while this ordinance is in effect, in accordance with the provisions of the Municipal Retailers' Occupation Tax Act, Illinois Revised Statutes Chapter 24, Section 8-11-1. (Ord. No. 69-4, 8-12-69)

§3.02.02 Monthly Reports. Every such person engaged in such business in the Village shall file on or before the last day of each calendar month, the report to the State Department of Revenue required by the Municipal Retailers Occupation Tax Act. (Ord. No. 69-4, 8-12-69)

§3.02.03 Payment of Tax. At the time such report is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed on account of the receipts from sales of tangible personal property during the preceding month. (Ord. No. 69-4, 8-12-69)

Chapter 3.03

Use Tax

Sections:

- 3.03.01 Tax on Use of Personal Property Purchased Outside of State
- 3.03.02 Collection of Tax
- 3.03.03 Payment of Tax

§3.02.01 Tax on Use of Personal Property Purchased Outside of State. A tax is hereby imposed upon the privilege of using in this municipality any item of tangible personal property which is purchased outside of Illinois at retail, from a retailer, and which is titled or registered with an agency of this State's government, at a rate of not to exceed one percent of the retailing price of such tangible personal property, as such selling price is defined in the "Use Tax Act" approved July 14, 1955, as amended, all in accordance with the provisions of Illinois Revised Statutes Chapter 24, Section 8-11-6. (Ord. No. 82-5, 6-9-82)

§3.02.02 Collection of Tax. The tax provided in this ordinance shall be collected from the persons whose Illinois address for titling or registration purposes is given as being in this Village. (Ord. No. 82-5, 6-9-82)

§3.02.03 Payment of Tax. The tax imposed by this ordinance shall be paid to the Illinois Department of Revenue. (Ord. No. 82-5, 6-9-82)

Chapter 3.04

Telecommunications Infrastructure Maintenance Fee

Sections:

3.04.01	Definitions
3.04.02	Registration of Telecommunications Providers
3.04.03	Municipal Telecommunication Infrastructure Maintenance Fees
3.04.04	Collection, Enforcement and Administration of Telecommunications Infrastructure Maintenance Fees
3.04.05	Compliance With Other Laws
3.04.06	Existing Franchises and Licenses
3.04.07	Penalties
3.04.08	Enforcement
3.04.09	Severability
3.04.10	Conflict
3.04.11	Waiver and Fee Implementation

§3.04.01 Definitions. The following definitions shall apply in the interpretation and enforcement of this Ordinance:

1. "Gross Charges" means the amount paid to a telecommunications retailer for the act or privilege of originating or receiving communications within the Village, 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 any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs, or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. "Gross charges" for private line service shall include charges imposed at each channel point within the Village, charges for the channel mileage between each channel point within the Village, and charges for that portion of the interstate inter-office channel provided within the Village. However, "gross charges" shall not include:

(a) any amounts added to a purchaser's bill because of a charge made under: (i) the fee imposed by this Section, (ii) additional charges added to a purchaser's bill under Section 9-221 or 9-222 of the Public Utilities Act, (iii) amounts collected under Section 8-11-17 of the Illinois Municipal Code, (iv) the tax imposed by the Telecommunications Excise Tax Act, (v) 911 surcharges, or (vi) the tax imposed by Section 4251 of the Internal Revenue Code;

(b) charges for a sent collect telecommunication received outside the Village;

(c) 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;

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

(e) 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 Village;

(f) 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, and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit other than a regulatory required profit for the corporation rendering such services;

(g) 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);

(h) charges paid by inserting coins in coin-operated telecommunications devices;
or

(i) charges for telecommunications and all services and equipment provided to the Village.

2. "Public Right-of-Way" means any municipal street, alley, bodies of water or public right-of-way dedicated or commonly used for utility purposes, including utility easements wherein the Village has acquired the right and authority to locate or permit the location of utilities consistent with telecommunications facilities. "Public Right-of-Way" shall not include any real or personal Village property that is not specifically described in the previous sentence and shall not include Village buildings and other structures or improvements, regardless of whether they are situated in the public right-of-way.

3. "Telecommunications" includes, but is not limited to, messages or information transmitted through use of local, toll, and wide area telephone service, channel services,

telegraph services, teletypewriter service, computer exchange services, private line services, specialized mobile radio services, 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. Unless the context clearly requires otherwise, "telecommunications" shall also include wireless telecommunications as hereinafter defined. "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 or her to the ultimate retail consumer who originates or terminates the end-to-end communications. Retailer access charges, right of access charges, charges for use of intercompany facilities, and all telecommunications resold in the subsequent provision and used as a component of, or integrated into, end-to-end telecommunications service shall not be included in gross charges as sales for resale. "Telecommunications" shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following) as now or hereafter amended or cable or other programming services subject to an open video system fee payable to the Village through an open video system as defined in the Rules of the Federal Communications Commission (47 C.D.F. 76.1550 and following) as now or hereafter amended.

4. "Wireless telecommunications" includes cellular mobile telephone services, personal wireless services as defined in Section 704(C) of the Telecommunications Act of 1996 (Public Law No. 104-104), 42 U.S.C. §332(c)(7), as now or hereafter amended, including all commercial mobile radio services, and paging services.

5. "Sale of telecommunications at retail" means the transmitting, supplying, or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

6. "Telecommunications retailer" or "retailer" or "carrier" means and includes every person engaged in the business of making sales of telecommunications at retail as defined in this Section. The Village may, in its discretion, upon application, authorize the collection of the fee hereby imposed by any retailer not maintaining a place of business within this State, who, to the satisfaction of the Village, furnishes adequate security to ensure collection and payment of the fee. When so authorized, it shall be the duty of such retailer to pay the fee upon all of the gross charges for telecommunications in the same manner and subject to the same requirements as a retailer maintaining a place of business within the Village.

7. "Retailer maintaining a place of business in this State", or any like term, means and includes any retailer having or maintaining within the State of Illinois, 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.

8. "Telecommunications provider" means (1) any telecommunications retailer; and (2) any person that is not a telecommunications retailer that installs, owns, operates or controls equipment in the public right-of-way that is used or designed to be used to transmit telecommunications in any form.

9. "Service address" means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received. If this is not a defined location, as in the case of wireless telecommunications, paging systems, maritime systems, air-to-ground systems, and the like, "service address" shall mean the location of the customer's primary use of the telecommunications equipment as defined by the location in Illinois where bills are sent.

(Ord. No. 99-5, 7-14-99)

§3.04.02 Registration of Telecommunications Providers.

1. Every telecommunications provider as defined by this Ordinance shall register with the Village within 30 days after the effective date of this Ordinance or becoming a telecommunications provider, whichever is later, on a form to be provided by the Village, provided, however, that any telecommunications retailer that has filed a return pursuant to Section 5.3 of this Ordinance shall be deemed to have registered in accordance with this Section.

2. Every telecommunications provider who has registered with the Village pursuant to Section 3.1 (a) has an affirmative duty to submit an amended registration form or current return as required by Section 5.3, as the case may be, to the Village within 30 days from the date of the occurrence of any changes in the information provided by the telecommunications provider in the registration form or most recent return on file with the Village.

(Ord. No. 99-5, 7-14-99)

§3.04.03 Municipal Telecommunications Infrastructure Maintenance Fees.

1. A Village telecommunications infrastructure maintenance fee is hereby imposed upon all telecommunications retailers in the amount of one-half of one-percent (0.5%) of all gross charges charged by the telecommunications retailer to service addresses within the Village for telecommunications originating or received in the Village.

2. Upon the effective date of the infrastructure maintenance fee authorized in this Ordinance, the Village infrastructure maintenance fee authorized hereunder shall be the

only fee or compensation for the use of all public rights-of-way within the Village by telecommunications retailers. Imposition of the infrastructure maintenance fee provided under this Ordinance does not, however, serve as a limitation on the levying of any taxes or imposition of any fees otherwise authorized by law.

(3) The Village telecommunications infrastructure maintenance fee authorized by this Section shall be collected, enforced, and administered as set forth in Section 5 of this Ordinance.

(Ord. No. 99-5, 7-14-99)

§3.04.04 Collection, Enforcement and Administration of Telecommunications Infrastructure Maintenance Fees.

1. A telecommunications retailer shall charge to and collect from each customer an additional charge in an amount equal to the Village infrastructure maintenance fee attributable to that customer's service address.

2. Unless otherwise approved by the Village [Manager/Administrator] the infrastructure maintenance fee shall be remitted by the telecommunications retailer to the Village not later than the last day of the month subsequent to the month in which a bill is issued to the customer; provided, however, that the telecommunications retailer may retain an amount not to exceed 2% of the Village infrastructure maintenance fee collected by it to reimburse itself for expenses incurred in accounting for and remitting the fee.

3. Remittance of the municipal infrastructure fee to the Village shall be accompanied by a return, in a form to be prescribed by the Village [Manager/Administrator], which shall contain such information as the Village [Manager/Administrator] may reasonably require.

4. Any infrastructure maintenance fee required to be collected pursuant to this Ordinance and any such infrastructure maintenance fee collected by such telecommunications retailer shall constitute a debt owed by the telecommunications retailer to the Village. The charge imposed under Section 5.1 by the telecommunications retailer pursuant to this Ordinance shall constitute a debt of the purchaser to the telecommunications retailer who provides such services until paid and, if unpaid, is recoverable at law in the same manner as the original charge for such services.

5. If it shall appear that an amount of infrastructure maintenance fee has been paid that was not due under the provisions of this Ordinance, whether as a result of a mistake of fact or an error of law, then such amount shall be credited against any infrastructure maintenance fee due, or to become due, under this Ordinance, from the telecommunications retailer who made the erroneous payment; provided, however, the Village [Manager/Administrator] may request, and telecommunications retailer shall provide, written substantiation for such credit. However, no claim for such credit may be made more than three (3) years after the date of the erroneous payment unless, (1) the credit is used only to offset a claim of underpayment made by the Village within the

applicable statutory period of limitations, and (2) the credit derives from an overpayment made by the same telecommunications retailer during the applicable statutory period of limitations.

6. Amounts paid under this Ordinance by telecommunications retailers shall not be included in the tax base under any of the following acts as described immediately below:

- (a) “gross charges” for purposes of the Telecommunications Excise Tax Act;
- (b) “gross receipts” for purposes of the municipal utility tax as prescribed in Section 8-11-2 of the Illinois Municipal Code;
- (c) “gross charges” for purposes of the municipal telecommunications tax as prescribed in Section 8-11-17 of the Illinois Municipal Code;
- (d) “gross revenue” for purposes of the tax on annual gross revenue of public utilities prescribed in Section 2-202 of the Public Utilities Act.

7. The Village shall have the right, in its discretion, to audit the books and records of all telecommunications retailers subject to this Ordinance to determine whether the telecommunications retailer has properly accounted to the Village for the Village infrastructure maintenance fee. Any underpayment of the amount of the Village infrastructure maintenance fee due to the Village by the telecommunications retailer shall be paid to the Village plus five (5%) percent of the total amount of the underpayment determined in an audit, plus any costs incurred by the Village in conducting the audit, in an amount not to exceed five (5%) percent of the total amount of the underpayment determined in an audit. Said sum shall be paid to the Village within twenty-one (21) days after the date of issuance of an invoice for same.

8. The Village [Manager/Administrator], or his or her designee, may promulgate such further or additional regulations concerning the administration and enforcement of this Ordinance, consistent with its provisions, as may be required from time to time and shall notify all telecommunications retailers that are registered pursuant to Section 3 of this Ordinance of such regulations.

(Ord. No. 99-5, 7-14-99)

§3.04.05 Compliance With Other Laws. Nothing in this Ordinance shall excuse any person or entity from obligations imposed under any law, including but not limited to:

- (1) generally applicable taxes; and
- (2) standards for construction on, over, under, or within, use of or repair of the public rights-of-way, including standards relating to free standing towers and other structures upon the public rights-of-way, as provided; and

- (3) any liability imposed for the failure to comply with such generally applicable taxes or standards governing construction on, over, under, or within, use of or repair of the public rights-of-way; and
- (4) compliance with any ordinance or provision of this Code concerning uses or structures not located on, over, or within the right-of-way.

(Ord. No. 99-5, 7-14-99)

§3.04.06 Existing Franchises and Licenses. Any franchise, license or similar agreements between telecommunications retailers and the Village entered into before the effective date of this Ordinance regarding the use of public rights-of-way shall remain valid according to and for their stated terms except for any fees, charges or other compensation to the extent waived. (Ord. No. 99-5, 7-14-99)

§3.04.07 Penalties. Any telecommunication provider who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Chapter shall be subject to a fine in accordance with the general penalty provisions of the Village Code. (Ord. No. 99-5, 7-14-99; Ord. No. 09-3, 6-10-09 §2)

§3.04.08 Enforcement. Nothing in this Ordinance shall be construed as limiting any additional or further remedies that the Village may have for enforcement of this Ordinance. (Ord. No. 99-5, 7-14-99)

§3.04.09 Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof. (Ord. No. 99-5, 7-14-99)

§3.04.10 Conflict. This Ordinance supersedes all Ordinances or parts of Ordinances adopted prior hereto which are in conflict herewith, to the extent of such conflict. (Ord. No. 99-5, 7-14-99)

§3.04.11 Waiver and Fee Implementation.

- (1) The Village hereby waives all fees, charges, and other compensation that may accrue, after the effective date of the waiver, to the Village by a telecommunications retailer pursuant to any existing Village franchise, license, or similar agreement with a telecommunications retailer during the time the Village imposes the Telecommunications Infrastructure Maintenance Fee. This waiver shall only be effective during the time the Infrastructure Maintenance Fee provided for in this Ordinance is subject to being lawfully imposed on the telecommunications retailer and collected by the telecommunications retailer from the customer.

- (2) The Village Clerk shall send a notice of the waiver by certified mail, return receipt requested, to each telecommunications retailer with whom the Village has a franchise.
- (3) The Village infrastructure maintenance fee provided for in this Ordinance shall become effective and imposed on the first day of the month not less than ninety (90) days after the Village provides written notice by certified mail to each telecommunications retailer with whom the Village has an existing franchise, license, or similar agreement that the Village waives all compensation under such existing franchise, license, or similar agreement during such time as the fee is subject to being lawfully imposed and collected by the retailer and remitted to the Village. The infrastructure maintenance fee shall apply to gross charges billed on or after the effective date as established in the preceding sentence.

(Ord. No. 99-5, 7-14-99)

Chapter 3.05

Local Taxpayer's Bill Of Rights and Responsibilities

Sections:

3.05.01	Title
3.05.02	Scope
3.05.03	Definitions
3.05.04	Notices
3.05.05	Payment
3.05.06	Certain Credits and Refunds
3.05.07	Audit Procedure
3.05.08	Appeal
3.05.09	Hearing
3.05.10	Interest and Penalties
3.05.11	Abatement
3.05.12	Installment Contracts
3.05.13	Statute of Limitations
3.05.14	Voluntary Disclosure
3.05.15	Publication of Tax Ordinances
3.05.16	Lien Review Procedure
3.05.17	Application
3.05.18	Severability

§3.05.01 Title. This Chapter of the Village Code shall be known as, and may be cited as, the "Local Taxpayer's Bill of Rights and Responsibilities".

§3.05.02 Scope. The Provisions of this Chapter of the Village Code shall apply to the Village's procedures in connection with all of the Village's locally imposed and administered taxes and fees.

§3.05.03 Definitions. Certain words or terms herein shall have the meaning ascribed to them as follows:

"ACT" means the "Local Government Taxpayers' Bill of Rights Act" (50 ILCS 45/1 *et seq.*).

"CORPORATE AUTHORITIES" means the Village's President and Board of Trustees.

"HEARING OFFICER" means an administrative individual appointed by the Village President with the advice and consent of the Village Board to conduct hearings and

to issue final determinations regarding the collection of all locally imposed and administered taxes.

"LOCALLY IMPOSED AND ADMINISTERED TAX" or "TAX" means any tax imposed by the Village that is collected or administered by the Village, not by any agency or department of the State, and does not include any taxes imposed upon real property under the Property Tax Code or fees collected by the Village other than infrastructure maintenance fees.

"LOCAL TAX ADMINISTRATOR" means the Village President of the Board of Trustees or other Village official charged with the administration and collection of the locally imposed and administered taxes, including staff, employees, or agents to the extent they are authorized by the local tax administrator to act in the local tax administrator's stead. The local tax administrator shall have the authority to implement and give full effect to the terms of this Chapter of the Village Code, but shall not act in a manner inconsistent with this Chapter and the Act.

"VILLAGE" means the Village of Dunlap, Peoria County, Illinois.

"NOTICE" means any audit notice, collection notice, or other similar notice or communication in connection with any tax locally imposed and administered by the Village.

"TAX ORDINANCE" means any ordinance adopted by the Village that imposes any locally imposed and administered tax.

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

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

- A. First class or express mail, or overnight mail, addressed to the person(s) concerned at the person's last known address, or
- B. Personal service or delivery.

§3.05.05 Payment. Any payment or remittance received for a tax period shall be applied in the following order: (1) first to the tax due for the applicable period; (2) second to the interest due for the applicable period; and (3) third to the penalty for the applicable period.

§3.05.06 Certain Credits and Refunds.

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

B. The statute of limitations on a claim for credit or refund shall be one (1) year after the end of the calendar year in which payment in error was made. The Village shall not grant a credit or refund of locally imposed and administered taxes, interest, or penalties to a person who has not paid the amounts directly to the Village.

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

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

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

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

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

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

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

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

a. Grant the claim; or

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

3. In the event the local tax administrator grants, in whole or in part, a claim for refund or credit, the amount of the grant for refund or credit shall bear interest at the rate of five percent (5%) per annum, based on a year of 365 days and the number of days elapsed, from the date of the overpayment to the date of mailing of a refund check or the grant of a credit.

§3.05.07 Audit Procedure. Any request for a proposed taxpayer audit regarding any locally imposed and administered tax shall comply with the notice requirements of this Chapter of the Village Code.

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

1. The tax;
2. The time period of the audit; and
3. A brief description of the books and records to be made available by the taxpayer for the auditor.

B. The audit shall be conducted during normal business hours not less than seven (7) days or more than thirty (30) days from the date the notice is given, unless the taxpayer and the local tax administrator agree to some other convenient time.

C. If the date and time selected by the local tax administrator is not agreeable to the taxpayer or if the taxpayer seeks an extension of time to have the audit conducted, the taxpayer may request, prior to the scheduled audit, another date and time for the audit which is within thirty (30) days after the originally designated audit date and during normal business hours. The local tax administrator shall confirm, in writing, the new audit date with the taxpayer.

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

E. It is the duty and responsibility of every taxpayer to make available its books and records for inspection by the Village. If the taxpayer or tax collector fails to provide the documents necessary for audit within the time provided, the local tax administrator may issue a tax determination and assessment based on the tax administrator's determination of the best estimate of the taxpayer's tax liability.

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

determination of the amount of overpayment.

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

§3.05.08 Appeal.

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

1. The reason for the assessment;
2. The amount of the tax liability proposed;
3. The procedure for appealing the assessment; and
4. The obligations of the Village during the audit, appeal, refund, and collection process.

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

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

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

E. Upon the showing of reasonable cause by the taxpayer and the full payment of the contested tax liability along with interest accrued as of the due date of the tax, the local tax administrator may reopen or extend the time for filing a written protest and petition for hearing. In no event shall the time for filing a written protest and petition for hearing be reopened or extended for more than ninety (90) days after the expiration of the forty-five (45) day period.

§3.05.09 Hearing.

A. Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under the Section 3.05.08, the local tax administrator shall conduct a hearing regarding any appeal. The taxpayer may request that a hearing officer conduct the hearing rather than the local tax administrator.

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

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

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

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

A. Interest. The Village hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax to be five percent (5%) per annum, based on a year of 365 days and the number of days elapsed.

B. Late Filing and Payment Penalties. If a tax return is not filed within the time and manner provided by the controlling tax ordinance, a late filing penalty, of five percent (5%) of the amount of tax required to be shown as due on a return shall be imposed; and a late payment penalty of five percent (5%) of the tax due shall be imposed. If no return is filed within the time or manner provided by the controlling tax ordinance and prior to the Village issuing a notice of tax delinquency or notice of tax liability, then a failure to file penalty shall be assessed equal to twenty-five percent (25%) of the total tax due for the applicable reporting period for which the return was required to be filed. A late filing or payment penalty shall not be imposed under this Section if a failure to file penalty is imposed by the controlling ordinance.

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

§3.05.12 Installment Contracts. The Village may enter into an installment contact with the taxpayer for the payment of taxes under the controlling tax ordinance. The local tax administrator may not cancel any installment contract so entered unless the

taxpayer fails to pay any amount due and owing. Upon written notice by the local tax administrator that the payment is thirty (30) days delinquent, the taxpayer shall have fourteen (14) business days to cure any delinquency. If the taxpayer fails to cure the delinquency within the fourteen (14) day period or fails to demonstrate good faith in restructuring the installment contract with the local tax administrator, the installment contract may be canceled without further notice to the taxpayer.

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

A. No determination of tax due and owing may be issued more than 4 years after the end of the calendar year for which the return for the applicable period was filed or for the calendar year in which the return for the applicable period was due, whichever occurs later.

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

C. No statute of limitations shall apply if a fraudulent tax return was filed by the taxpayer.

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

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

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

- (A) Timely remove the lien at the Village's expense;
- (B) Correct the taxpayer's credit record; and
- (C) Correct any public disclosure of the improperly imposed lien.

§3.05.17 Application. This Chapter of the Village Code shall be liberally construed and administered to supplement all of the Village's tax ordinances. Except when specifically set forth in this Chapter that the other tax ordinance is controlling, to the extent that any tax ordinance is in conflict with or inconsistent with this Chapter, this Chapter shall be controlling.

§3.05.18 Severability. If any section, paragraph, or provision of this Chapter of the Village Code shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this Chapter.