

CHAPTER 36

TAXATION

ARTICLE I – FOREIGN FIRE INSURANCE TAX

36-1-1 TAX ESTABLISHED. All corporations, companies and associations not incorporated under the laws of the State which are engaged, within the limits of the City, in writing fire insurance, shall pay annually to the Treasurer of the City, for the use and support of the fire department of the City, the sum of **two percent (2%)** of the gross receipts of their agencies in the City. All such corporations, companies and associations shall pay at the rate of **two percent (2%)** upon the gross amount of premiums, which shall have been received for any insurance effected or agreed to be effected, within the limits of the City during each year ending **July first (1st)** by each association or company, respectively.

36-1-2 PERSONS ACTING AS AGENT, ETC., TO REPORT PREMIUMS. Every person who shall act, within the City, as agent or otherwise for or in behalf of any corporation, company or association as referred to in **Section 36-1-3** of this Code shall, on or before the **fifteenth (15th) day** of July of each year, render to the City Clerk, a full, true, and just account, verified by affidavit, of all the premiums which shall have been reviewed by such agent for fire insurance during the year ending **July first (1st)**, preceding such report, in behalf of such corporation, company or association.

36-1-3 PERSONS ACTING AS AGENT TO MAKE PAYMENT OF TWO PERCENT (2%) OF GROSS RECEIPTS; COMPANIES IN DEFAULT NOT TO TRANSACT BUSINESS. Every person who shall act within the City as agent or otherwise for or in behalf of any corporation, company or association as referred to in **Section 36-1-2** of the Article, shall, on behalf of the corporation, company or association represented, pay annually to the City Treasurer, at the time of making the report referred to in **Section 36-1-2 two percent (2%)** of the gross receipts or premiums of his agency, for which the corporation, company or association represented by the person making such report is chargeable by virtue of this Article. If such account be not rendered on or before the day designated in this Article, or if the rate above fixed shall remain unpaid after that date, it shall be unlawful for such corporation, company or association, so in default, to transact any business within the limits of the City until the above requirements have been fully met; but this provision shall not relieve any such corporation, company or association from the payment of any risk taken in violation hereof.

36-1-4 EFFECT OF FAILURE OF PERSON ACTING AS AGENT, ETC., TO MAKE REPORT OF PREMIUMS OR TO PAY SUMS DUE; EFFECTING CONTRACTS OF FIRE INSURANCE FOR NON-COMPLYING COMPANIES, ETC.

Any person acting as agent or otherwise for, or in behalf of any fire insurance company, corporation or association, as referred to in this Section, in effecting fire insurance within the limits of the City, who shall fail to make the report required in this Article, or fail to pay over the amount due from any such corporation, company or association at the time designated for that purpose, or who shall effect or attempt to effect any contract of fire insurance in behalf of any such corporation, company or association, which has not complied with the provisions of this Article, shall, upon conviction, be deemed guilty of a misdemeanor; provided, that any prosecution brought by the City to enforce the penalty for the violation of this Article shall not interfere with the rights of the City to recover, by appropriate action, the sum due the City, at the rate fixed in this Article, from any such corporation, company or association, its agents or representatives.

(See 65 ILCS Sec. 5/11-10-1)

ARTICLE II

SIMPLIFIED TELECOMMUNICATIONS TAX

36-2-1 **TAX IMPOSED.** A simplified municipal telecommunications tax is hereby imposed upon the act or privilege of originating in the municipality or receiving in the municipality intrastate or interstate telecommunications by a person under the provision of the Simplified Municipal Telecommunications Tax Act, P.A. 92-05265, at a rate if **one percent (1%)** of the gross charges for such telecommunications purchased at retail from a retailer.

36-2-2 **TAX COLLECTED.** The tax imposed shall be collected and enforced by the Department of Revenue of the State of Illinois. The Illinois Department of Revenue shall have full power to administer and enforce the provisions of this Article.

(Ord. No. 1484; 09-15-03)

ARTICLE III - HOTEL OPERATORS' OCCUPATION TAX

36-3-1 **IMPOSED.** The City hereby adopts the provisions of **65 ILCS 5/8-3-14**, as amended, and imposes a tax upon all persons engaged within the City in the business of renting, leasing or letting rooms in a hotel, as defined in the Hotel Operators' Occupation Tax Act, being **35 ILCS 145 et seq.**, at a rate of **five percent (5%)** of the gross rental receipts from that renting, leasing or letting of rooms in a hotel, excluding however, from gross rental receipts, the proceeds of the renting, leasing or letting to permanent residents of each hotel, this tax to be administered and collected in accordance with this Section.

36-3-2 **DEFINITIONS.** All terms used in this Section shall have the following meanings as defined in the Hotel Operators' Occupation Tax Act, **35 ILCS 145 et seq.**, as applicable and as the same shall be in force and effect from time to time.

(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 regardless of whether or not it is the same room or rooms in a hotel for at least **thirty (30) consecutive days.**

(F) **"Rent" or "rental"** means the consideration received for occupancy, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature.

(G) **"Person"** means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian or other representative appointed by order of any court.

36-3-3 **TAX CONSTITUTING SEPARATE CHARGE.** Those persons subject to the tax imposed by this Section may reimburse themselves for their tax liability for the tax by separately stating the 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 heretofore cited.

36-3-4 **EXEMPTIONS FROM TAX.** Gross rental receipts from the renting, leasing, or letting rooms in a hotel only to permanent residents shall be exempt from the provisions of this Section, and persons subject to the tax imposed hereby shall be entitled to

exclude from gross rental receipts, for the purpose of computing the tax imposed hereby, that portion of the proceeds arising from renting, leasing or letting to permanent residents of the hotel operated by the person.

36-3-5 **USE OF PROCEEDS.** The City shall expend the tax collected pursuant to this Section solely to promote tourism and conventions within the city and, otherwise, to attract nonresident, overnight visitors to the City, and no tax collected pursuant to this Section shall be used to advertise for or otherwise to promote new competition in the hotel business within the City.

36-3-6 **BOOKS AND RECORDS.** Every person subject to the tax imposed by this Section shall keep separate books and records of his or her business as an operator so as to show the rents and occupancies taxable under this Section separately from his or her transactions not taxable hereunder. If any operator fails to keep these separate books or records, he or she shall be liable to tax at the rate designated herein upon the entire gross proceeds from the operation of his or her hotel.

36-3-7 **REGISTRATION.** Every person engaged within the City in the business of renting, leasing or letting rooms in a hotel, so as to be subject to the tax imposed hereby, shall register his or her operation in the office of the City Clerk upon a registration form to be adopted and prescribed by the City, which form shall include that information as shall be reasonably necessary in order to issue collection and enforcement of the tax imposed by this Section.

36-3-8 **TAX RETURNS.** Each person required to register and subject to the tax imposed pursuant to this Code shall file tax returns with the City Clerk on a quarter-annual basis with the return for January, February and March of a given year due by **April 30** of such year; with the return for April, May and June of a given year due by **July 31** of such year; with the return for July, August and September of a given year being due by **October 31** of such year; and with the return for October, November and December of a given year due by **January 31** of the following year. The quarter-annual returns shall be on a form approved by the City, and shall include copies of the tax return or returns covering the same quarter-annual period filed by that person with the State Department of Revenue and the State of Illinois pursuant to the Hotel Operators' Occupation Tax Act heretofore cited. **(Ord. No. 1637; 06-06-11)**

36-3-9 **PAYMENT OF TAX.** The tax due pursuant to this Section shall be due and payable on or before the date the tax return showing the tax liability is filed with the City Clerk and shall be paid to the City Clerk together with any interest and penalty due, and the City Clerk shall deposit the funds so collected into a separate fund to be designated "Hotel Operators' Occupation Tax Fund".

36-3-10 **INTEREST AND PENALTIES.** If the tax due pursuant to this Section is not paid on or before the due date of the return required to be filed by the person responsible for the payment of the tax, that person shall in addition to the tax, be liable for a penalty equal to **one and one-half percent (1.5%)** of the tax due for each month, or part thereof, until the tax and penalty is paid in full. The penalty imposed hereby shall be assessed and collected in the same manner as the tax imposed under this Section.

36-3-11 **PENALTIES FOR LATE FILING.** Any person responsible for filing a tax return and paying tax pursuant to this Section who shall fail to file the required tax return on or before the due date thereof, whether or not the tax is paid therewith, shall be liable for a penalty in the amount of **Ten Dollars (\$10.00)** per day for each day that the tax return is late, and each day shall constitute a separate offense for purposes hereof.

36-3-12 **COMPLIANCE.** All returns required to be filed hereunder shall be executed by the proprietor, a general partner, or an authorized corporate officer and shall be made under penalties of perjury. Any person willfully filing a return containing false or inaccurate information shall be guilty of perjury and of a violation of this Section, and shall be subject to the fine imposed for violations of this Section in addition.

36-3-13 **AUDITS.** The City, through its designated agent or officer, shall have the right, at reasonable times after reasonable notice, to examine all books and records maintained by the person registered or required to be registered under this Section, including, but not limited to, general accounting records, bank records, returns required to be filed under the Hotel Operators' Occupation Tax Act heretofore cited, state and federal income tax returns, and any other books, records or documents which are relevant in the determination and confirmation of the full and accurate reporting of gross receipts on which tax is imposed by this Section, the entitlement to any exemptions claimed, and the payment of the full tax due pursuant to this Section.

36-3-14 **LIEN IMPOSED.** At any time after an assessment and demand for payment of any tax interest or penalty due pursuant to this Section is made against any person, the City may file a notice of lien for that tax, in the office of the Recorder of Deeds of Macoupin County, Illinois, and a lien shall attach to all property owned by the person in the City of Carlinville, Illinois, and shall continue in effect for a period of **seven (7) years** after filing and may be foreclosed in the manner of a judicial lien. The remedy for imposing a lien hereunder shall be in addition to all other remedies available to the City to collect the tax, interest and penalty due, including civil actions.

36-3-15 **FAILURE TO PAY.** Whenever any person shall fail to pay any taxes, interest or penalties as hereinabove required, such person shall be required to pay the reasonable costs and attorney's fees incurred by the City in collecting the same, and the City Attorney shall, upon the request of the corporate authorities, bring an action to collect the payment of such taxes, interest and penalties, together with the costs and reasonable attorney's fees incurred in connection therewith, in any court of competent jurisdiction.

(Ord. No. 1632; 05-02-11)

ARTICLE IV – BUSINESS DISTRICT TAX

36-4-1 TAX IMPOSED. Effective **January 1, 2013** certain taxes are hereby imposed in accord with the provisions of the Illinois Business District Development and Redevelopment Law (“the Law”), **65 ILCS 5/11-74.3-3 (10)** and **(11)** as follows:

(A) A tax to be known as the “Business District Retailers’ Occupation 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 within the boundaries of the Carlinville Plaza Business District 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. This “Business District Retailers’ Occupation Tax” shall not be applicable to the sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes and needles used by diabetics.

(B) A tax to be known as the “Business District Service Occupation Tax” is hereby imposed upon all persons engaged within the boundaries of the Carlinville Plaza Business District 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 as an incident to a sale of service.

(C) A tax to be known as the “Business District Hotel Operators’ Occupation Tax” is hereby imposed upon all persons engaged within the boundaries of the Carlinville Plaza Business District in the business of renting, leasing or letting of hotel rooms within the Business District, at the rate of **one percent (1%)**.

36-4-2 COMPLIANCE WITH STATUTES. The imposition of these Business District Taxes is in accordance with the provisions of subsections (B), (C) and (D), respectively, of Section 11-74.3-6 of the Illinois Municipal Code (**65 ILCS 5/11-74.3-6**). The City Council shall adopt an ordinance to discontinue these Business District Taxes such that said taxes shall not be imposed for more than **twenty-three (23) years**, in accordance with Illinois Law, within the time frame necessary to duly notify the Illinois Department of Revenue (not less than **three (3) months** but no more than **eight (8) months** prior to discontinuation).

36-4-3 ENFORCEMENT. The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto shall be collected, administered, and enforced in accordance with **65 ILCS 5/11-74.3-6**.

36-4-4 FILING OF CERTIFIED COPY. The Municipal Clerk is hereby directed to file a certified copy of this Article with the Illinois Department of Revenue and publish the same as required by law.

(Ord. No. 1682; 10-01-12)

ARTICLE V – RETAILERS’ OCCUPATION TAX

36-5-1 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 and 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 Article 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 as an incident to a sale of service while this Article is in effect. This “Non-Home Rule Municipal Retailers’ Occupation Tax” and this “Non-Home Rule Municipal Service Occupation Tax” shall not be applicable to the sales of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing material, syringes and needles used by diabetics.

The imposition of these non-home rule taxes is in accordance with the provisions of Sections 8-11-1.1, 8-11-1.2, 8-11-1.3 and 8-11-1.4 of the Illinois Municipal Code (**65 ILCS 5/8-11-1.1, 5/8-11-1.2, 5/8-11-1.3 and 5/8-11-1.4**).

36-5-2 ILLINOIS DEPARTMENT OF REVENUE TO ADMINISTER. 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 Article.

36-5-3 CLERK TO FILE ORDINANCE WITH ILLINOIS DEPARTMENT OF REVENUE. The City Clerk is hereby directed to file a certified copy of this Article and a certification that the Article received referendum approval with the Illinois Department of Revenue on or before the **first (1st) day of October, 2013**.

36-5-4 EFFECTIVE DATE. This Article shall take effect on the **first (1st) day of January, 2014**, next following the adoption and filing of this Article with the Department of Revenue.

36-5-5 REPEAL OF CONFLICTING PROVISIONS. All ordinances and resolutions or parts thereof, in conflict with the provisions of this Article are, to the extent of the conflict, expressly repealed on the effective date of this Article.

(Ord. No. 1709; 08-19-13)