

CHAPTER 23
OCCUPATION AND OTHER TAXES

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23.01 MUNICIPAL AUTOMOBILE RENTING OCCUPATION TAX

A. Imposition: 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 65 ILCS 5/8-11-7.

B. Reports: 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, 1993, as amended.

C. 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.

23.02 MUNICIPAL AUTOMOBILE RENTING USE TAX

A. Imposition: 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 entitled 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 65 ILCS 5/8-11-8.

B. Collection: The tax provided for in this chapter shall be collected from the persons whose Illinois address titling or registration purposes is given as being in this City.

C. Payment: The tax imposed by this chapter shall be paid to the Illinois Department of Revenue.

23.03 MUNICIPAL RETAILERS TAX

A. Required Tax: A tax is hereby imposed upon all persons engaged in this municipality in the business of selling tangible personal property at retail in this City 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 65 ILCS 5/8-121-1.

B. Report to State: Every such person engaged in such business in the City shall file on or before the 15th day of each calendar month, the report to the State Department of Revenue of the State of Illinois as required by Section 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 28, 1933, as amended.

C. Payment to State: At the time such report is filed, there shall be paid to the State Department of Revenue of the State of Illinois the amount of tax hereby imposed on account of the receipts from sales of tangible personal property during the preceding month, together with any penalties then due, if any, and such other information as may be required by Section Three as aforesaid.

23.04 MUNICIPAL SERVICE OCCUPATION TAX

A. Required Tax: 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 65 ILCS 5/8-11-5.

B. Report to State: Every supplier or serviceman required to account for Municipal Service Occupation Tax for the benefit of this City shall file, on or before the last day of each calendar month, the report to the State Department of Revenue of the State of Illinois as required by Section Nine of "An Act to impose a tax upon persons engaged in the business of making sales of Service" approved July 10, 1961, as amended.

C. Payment to State: At the time such report is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed together with any penalties then due and such other information as may be required.

23.05 MUNICIPAL USE TAX

A. Required Tax: A tax is hereby imposed upon the privilege of using, in the City, 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 this State's government, at a rate not to exceed one percent of the selling price of such tangible personal property, as "selling price" is defined in the "Use Tax Act", approved July 14, 1955, as amended.

B. Report to State: Such tax shall be collected from persons whose Illinois address for titling or registration purposes is given as being in the City. Such tax shall be collected by the Illinois Department of Revenue.

23.06 MUNICIPAL UTILITY TAX

A. Pursuant to 65 ILCS 5/8-11-2, *et seq.*, a tax is imposed on all Persons engaged in the following occupations or privileges:

1. Persons engaged in the business of transmitting intrastate messages by means of electricity, fiber optics or radio magnetic waves at a rate of six percent of the Gross Receipts from such business originating within the corporate limits of the City. (Ord. 2010-103, §3; Ord. 2002-122, §1)
2. Persons engaged in the business of distributing, supplying, furnishing or selling natural gas for use or consumption within the corporate limits of the City and not for resale, at the rate of five percent of the Gross Receipts therefrom. (Ord. 2006-134, §2)
3. Persons engaged in the business of distributing, supplying, furnishing, or selling water for use or consumption within the corporate limits of the City, and not for resale, at a rate not to exceed 5% of the gross receipts therefrom. (Ord 2009-128, §1)

B. Exemptions. No tax imposed by this Section 23.06 with respect to any transaction in interstate commerce or otherwise to the extent to which such business may not, under the Constitution and the statutes of the United States, be made subject to taxation by this State or any political subdivision thereof, nor shall any person engaged in the business of distributing, supplying, furnishing or selling natural gas or electricity, or engaged in the business of transmitting messages be subject to taxation under the provisions of this Section 23.06 for such transactions as are or may become subject to the provisions of Section 23.03 herein; nor shall any tax authorized by this Section 23.06 be imposed upon any Person engaged in a business unless such tax is imposed in like manner and at the same rate upon all Persons engaged in businesses of the same class in the City, whether privately or municipally owned or operated. (Ord. 2006-134, §3)

C. Application. Such tax shall be in addition to the payment of money, or value of products or services furnished to the City by the Taxpayer as compensation for the use of its streets, alleys or other public places, or installation and maintenance therein, thereon or thereunder of poles, wires, pipes or other equipment used in the operation of the Taxpayer's business.

D. Definitions. Terms used in this section mean as follows:

Gross Receipts: The consideration received for the transmission of messages, or distributing, supplying, furnishing or selling natural gas, or electricity for use or consumption and not for

resale, as the case may be; and for all services rendered in connection therewith valued in money, whether received in money or otherwise, including cash, credit, services and property of every kind and material and for all services rendered therewith; and shall be determined without any deduction on account of the cost of transmitting said messages without any deduction on account of the cost of transmitting said messages without any deduction on account of the cost of the service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expenses whatsoever. Gross receipts shall include charges added to customers' bills in respect of other taxes other than charges to recover the surcharge imposed pursuant to the Emergency Telephone System Act (50 ILCS 750/0.01 *et seq.*) Gross Receipts shall not include receipts received from the City of any of the utility products or services mentioned herein. Gross receipts shall not include that portion, if any, received for the transmission of messages for business enterprises described in 65 ILCS 5/8-11-2(e), to the extent and during the period in which the exemption authorized by said paragraph (e) is in effect. Gross Receipts shall not include receipts received from the City for any of the utility products or services mentioned herein to the City. (Ord. 2009-128, §2; Ord. 2006-134, §4)

Taxpayer: A Person engaged in the business of Transmitting Messages by means of electricity, fiber optics or radio magnetic waves at a rate of five percent of the Gross Receipts from such business originating within the corporate limits of the City of Harvard, Illinois.

Transmitting Messages: In addition to the usual and popular meaning of Person to Person communication, shall include the furnishing for a consideration, of services or facilities (whether owned or leased) or both, to Persons in connection with the transmission of messages where such Persons do not, in turn, receive any consideration in connection therewith, but shall not include such furnishing of services or facilities to Persons for the transmission of messages to the extent that any such services or facilities for the transmission of messages are furnished for a consideration, by such Persons to other Persons, for the transmission of messages.

Person: Any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, municipal corporation or political subdivision of this State, or a receiver, trustee, guardian or other representative appointed by order of any court.

E. In the case of Persons engaged in the business of Transmitting Messages through the use of mobile equipment, such as cellular phones and paging systems, the Gross Receipts from the business shall be deemed to originate within the corporate limits of the City only if the address to which the bills for service are sent is within the City's corporate limits. If, however, that address is not located within the City, then (i) if the party responsible for the bill is not an individual, the Gross Receipts from the business shall be deemed to originate within the corporate limits of the municipality where that party's principal place of business in Illinois is located, and (ii) if the party responsible for the bill is an individual, the Gross Receipts from the business shall be deemed to originate within the corporate limits of the municipality where that party's principal residence in Illinois is located.

F. Effective Date. This Section 23.06 shall be in effect upon the date of passage and tax provided herein shall be based on the Gross Receipts, as herein defined, actually paid to the Taxpayer for services billed on or after the 1st day of May, 1996.

G. Statement. Beginning on the 31st day of May, 1996, and thereafter on or before the last day of each month each Taxpayer shall make a return to the City Treasurer for the preceding month stating:

1. The Taxpayer's name;
2. The Taxpayer's principal place of business;
3. The Taxpayer's Gross Receipts during that month upon basis of which tax is imposed;
4. Amount of tax;
5. Such other reasonable and related information as the corporate authorities may require.

The Taxpayer 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 Taxpayer 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 difference between such billings and the taxable Gross Receipts.

H. Errors. If it shall appear that an amount of tax has been paid which was not due under the provisions of this section, 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 section 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.

- I. Penalty. Any Taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this section is guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$300, and shall be liable in a civil action for the amount of tax due plus reasonable attorney's fees and costs incurred by the City of Harvard in enforcing the terms of this Ordinance.

23.07 HOTEL/MOTEL TAX (Ord. 99-111, 1999)

- A. Definitions: In addition to the definitions found in Appendix A of this Code, terms, whether capitalized or not, used in this Section 23.07 shall have the following meanings:

Hotel: 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 with more than five guest units for rent.

Operator: Any person operating a hotel.

Occupancy: The use or possession, or a 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.

Room or Rooms: Any living quarters, sleeping or housekeeping accommodations.

Rent or Rental: 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.

Person: 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.

B. Tax: A tax is imposed upon persons engaged in the business of renting, leasing or letting rooms in a hotel at the rate of five percent of the gross rental receipts from such renting, leasing or letting.

C. Payment and Collection:

1. The tax levied herein shall be paid in addition to any and all other taxes. It shall be the duty of the operator of every hotel to collect said tax from the guest or lodger, and to pay over to the City said tax on a quarterly basis as provided herein.
2. Every person required to collect the tax levied by this Section 23.07 shall receive said tax from the guest or lodger at the time the room charge is paid. A receipt, invoice or other statement or memorandum showing the itemized rental and all taxes shall be issued to the user, lessee or tenant.

D. Administration and Enforcement:

1. Inspections: The City Administrator or his or her Designee may enter the premises of any hotel for inspection and examination of books and records for the proper administration of this Section 23.07 and enforcement of the collection of the tax imposed. It shall be unlawful for any person to prevent, hinder or interfere with the City Administrator or his or her designee in enforcing this Section 23.07.
2. Records Required: It shall be the duty of every person operating a hotel in the City to keep accurate and complete books and records to which the

City Administrator or his or her designee shall, at all times, have full access, which records shall include a daily sheet showing:

- a. The number of hotel rooms rented during the 24-hour period, including multiple rentals of the same hotel when such occurs; and
 - b. The actual hotel room tax receipts collected for the date in question.
3. Quarterly Tax Returns: Every person operating a hotel shall file tax returns showing tax receipts received with respect to each hotel during each three month period ending on March 31, June 30, September 30 and December 31 of each year, within 30 days after the end of the respective date, upon forms prescribed by rules and regulations of the City. At the time of filing said tax returns, the operator shall pay to the City all taxes due for the period to which the tax return applies. Each return shall be accompanied by payment to the City of all taxes due and owing for the quarter covered by the return.

E. Failure to Pay Tax:

1. Interest and Penalty: In the event any hotel owner, manager or operator fails to collect and pay to the City the tax required hereunder within 30 days after the same is due, interest shall accumulate and be due upon said tax at the rate of one percent per month commencing as of the first day of the month following the month for which the tax was to have been collected. In addition, a penalty of 10 percent of the tax and interest due shall be assessed and collected against any hotel owner, manager and operator.
2. Suit for Collection: Whenever any person fails to pay any tax required herein, the City Attorney shall, upon the request of the City Administrator, bring or cause to be brought an action to enforce the payment of said tax in behalf of the City in any court of competent jurisdiction. Any legal fees incurred by the City in the cost of collection shall be paid by the operator.
3. Revocation of City Licenses: If the Mayor, after conducting a hearing, finds that any person has willfully avoided payment of the tax imposed herein, he may suspend or revoke all City licenses held by the hotel. The operator shall have an opportunity to be heard at a hearing held not less than five days after notice of the time and place of the hearing, with said notice addressed to the operator at the last known place of business, has been delivered to the operator.

- F. Penalty: Any person found guilty of violating any provision of this Section 23.07 shall, upon conviction, be fined not less than \$100.00 nor more than \$1,000.00 for

each offense and be responsible for the City's cost of prosecution, including reasonable attorney fees. Each day that a violation continues shall be considered a separate offense.

23.08 ELECTRIC UTILITY TAX

A. Definitions: In addition to the definitions in Appendix A herein, terms, whether capitalized or not, used in this Section 23.08 mean as follows:

Gross Receipts: For purposes of this Section 23.08, the consideration received for distributing, supplying, furnishing or selling electricity for use or consumption and not for resale, as the case may be; and for all services rendered in connection therewith valued in money, whether received in money or otherwise, including cash, credit, services and property of every kind and material and for all services rendered therewith; and shall be determined without any deduction on account of the cost of the service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expenses whatsoever. Gross Receipts shall not include receipts received from the City for the sale to said City of any of the utility products or services mentioned above.

Kwh: Kilowatt-hours.

Person: For purposes of this Section 23.08, any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, municipal corporation or political subdivision of this State, or a receiver, trustee, conservator or other representative appointed by order of any court.

Person maintaining a place of business in this State: For purposes of this Section 23.08, any person having or maintaining within the State, directly or by a subsidiary or other affiliate, an office, generation, facility, distribution facility, transmission facility, sales office or other place of business, or any employee, agent or other representative operating within the State under the authority of the person or its subsidiary or other affiliate, irrespective of whether such place of business or agent or other representative is located in the State permanently or temporarily, or whether such person, subsidiary or other affiliate is licensed or qualified to do business in the State.

Purchase at retail: For purposes of this Section 23.08, any acquisition of electricity by a purchaser for purposes of use or consumption, and not for resale, but shall not include the use of electricity by a public utility, as defined in 65 ILCS 5/8-11-2, directly in the generation, production, transmission, delivery or sale of electricity.

Purchaser: For purposes of this Section 23.08, any person who uses or consumes, within the corporate limits of the City, electricity acquired in a purchase at retail (other than an exempt purchaser).

Tax collector: For purposes of this Section 23.08, the person delivering electricity to the purchaser.

B. Electric Tax:

1. Tax Imposed Upon End Users of Electricity: Pursuant to the Illinois Municipal Code (65 ILCS 5/8-11-2) and any other applicable authority, a tax is hereby imposed upon the privilege of using or consuming electricity purchased at retail and used or consumed within the corporate limits of the City at the following rates, as calculated on a monthly basis for each purchaser, except the City: (Ordinance 2004-109,§1)
 - a. For the first 2,000 kwh used or consumed in a month, 0.536 cents per kwh;
 - b. For the next 48,000 kwh used or consumed in a month, 0.352 cents per kwh;
 - c. For the next 50,000 kwh used or consumed in a month, 0.316 cents per kwh;
 - d. For the next 400,000 kwh used or consumed in a month, 0.308 cents per kwh;
 - e. For the next 500,000 kwh used or consumed in a month, 0.299 cents per kwh;
 - f. For the next 2,000,000 kwh used or consumed in a month, 0.281 cents per kwh;
 - g. For the next 2,000,000 kwh used or consumed in a month, 0.277 cents per kwh;
 - h. For the next 5,000,000 kwh used or consumed in a month, 0.273 cents per kwh;
 - i. For the next 10,000,000 kwh used or consumed in a month, 0.268 cents per kwh; and
 - j. For all electricity consumed or used in excess of 20,000,000 kwh in a month, 0.264 cents per kwh.

The tax rates set forth hereinabove will be used at least through December 31, 2008, and are those rates enumerated in 65 ILCS 5/8-11-2 (as modified by Public Act 90-561).

2. Effective Date. The tax rates as set forth in Section 23.08-B herein shall become effective on June 1, 2004. (Ord. 2004-109,§1)

3. Retail Sale: It shall be presumed that any electricity delivered to a person within the City is sold at retail, for its use or consumption within the City. This presumption is refutable only by clear and convincing evidence.
4. Collection: The tax imposed by this Section 23.08-B shall be collected from the purchaser by the person maintaining a place of business in this State who delivers the electricity to the purchaser. The tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser. If the tax is unpaid it is recoverable in the same manner as the original charge for delivering the electricity. Any tax required to be collected pursuant to this Section 23.08-B and any such tax collected by a person delivering electricity shall constitute a debt owed to the City by such person delivering the electricity, provided that the person delivering electricity shall be allowed credit for such tax related deliveries of electricity, the charges for which are written off as uncollectible, and provided further, that if such charges are thereafter collected, the delivering supplier shall be obligated to remit such tax to the City. Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering electricity shall be authorized to add to such gross charge an amount equal to three percent of the tax assessed pursuant to this Section 23.08-B to reimburse the person delivering electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting tax and supplying data to the City. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the City in the manner prescribed herein. Persons delivering electricity who file returns pursuant to this Section 23.08-B shall, at the time of filing such return, pay the City the amount of the tax collected pursuant to this Section 23.08-B.
5. Books and Records:
 - a. Every person delivering electricity who is required to collect a tax pursuant to Section 23.08-B-5 herein shall keep accurate books and records of all transactions which may affect the tax provided for in Section 23.08-C-1, including, but not limited to, records of the number of Kilowatt-hours (Kwh) used by each consumer within the City for each month, the charge imposed upon each consumer for the sale of the electricity and any related services, the amount of tax imposed by this Section 23.08-B billed to each consumer of electricity and the amount of tax actually collected, the amount of the charge imposed and collected by the electric distributor as compensation for collecting the tax provided for in this Section 23.08-B, and the total gross receipts received by the electricity deliverer for each month, not including the tax imposed by this Section 23.08-B.

- b. Every person delivering electricity who is required to collect a tax as set forth in Section 23.08-B-5 herein shall provide to the City, within seven days of written request, copies of all records, or any part thereof, which the City requests, which the electricity deliverer is required to keep pursuant to Section 23.08 herein.

6. Tax Remittance and Return:

- a. Every person collecting a tax pursuant to this Section 23.08-B shall, on a monthly basis, file a return with the City in a form prescribed by the City along with the total revenues collected. The return and accompanying remittance shall be delivered to the City on or before the last day of the month following the month during which the tax is collected or is required to be collected under Section 23.08-B-5.
- b. Each person who is required to pay a tax pursuant to this Section 23.08-B and who has not paid said tax to the electricity deliverer as provided for herein, shall file a return with the City as provided in Section 23.08-G and pay directly to the City the tax on or before the last day of the month following the month during which the electricity was used or consumed.

C. Exceptions: None of the taxes authorized by this Section 23.08 may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, or selling or transmitting electricity, or using or consuming electricity acquired in a purchase at retail, be subject to taxation under the provisions of this Section 23.08 for those transactions that are or may become subject to taxation under the provisions of the *Municipal Retailers' Occupation Tax Act* authorized by 65 ILCS 5/8-11-1; nor shall any tax authorized by this Section 23.08 be imposed upon any persons engaged in a business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in businesses of the same class in the City, whether privately or municipally owned or operated, or exercising the same privilege within the City.

D. Application: Such tax shall be in addition to the payment of money, or value of products or services furnished to this City by the taxpayer as compensation for the use of its streets, alleys or other public places, or installation and maintenance therein, thereon or thereunder of poles, wires, pipes or other equipment used in the operation of the taxpayer's business.

E. Disposition of Funds: All funds paid to the City pursuant to this Section 23.08 shall be used or held to be used for general City expenses.

F. Credit for Overpayment: If an amount of tax is paid which is not due under the provisions of this Section 23.08, whether as the result of a mistake of fact or law, then such amount shall be credited against any tax due, or to become due, under this Section 23.08 from the person who made the erroneous payment; provided that no amounts erroneously paid more than one year prior to the filing of a claim therefor shall be so credited.

No person shall be entitled to a credit for a tax imposed under this Section 23.08 unless the person files a claim for credit within one year after the date on which the tax was paid or remitted. All such claims shall first be filed with the City.

G. Statement: On or before the last day of each month, each taxpayer who has not paid the tax imposed by this Section 23.08-C to a person delivering electricity as set forth in this Section 23.08-C and who is not otherwise exempt from paying such tax, shall make a return to the City for the preceding month stating:

1. The name of the owner of the property where the electricity is consumed or the name of the taxpayer if different.
2. The taxpayer's principle place of business or residence.
3. The number of kilowatt-hours (Kwh) of electricity used during the month.
4. The amount of the tax.
5. Such other information as the City may require.

H. Fines, Penalties: Any taxpayer who fails to make a return, or who makes a fraudulent return, or who violates any other provision of this Section 23.08 shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$300.00 plus all costs of prosecution including, but not limited to, filing fees, witness fees, attorney fees and court costs. For purposes of this Section 23.08-H, each day upon which a violation occurs or continues to occur shall be deemed a separate and distinct violation. This penalty is in addition to any civil action which may be available to the City or electric deliverer to collect upon the amount of tax due.

23.09 CABLE/VIDEO SERVICE PROVIDER FEE

A. Definitions

In addition to those terms defined in Section 1.02 of this Code, the following terms shall have the following meanings in this Chapter:

Cable service: As defined in 47 U.S.C. § 522(6).

Commission: The Illinois Commerce Commission.

Gross revenues: 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.

1. Gross revenues shall include the following:
 - a. Recurring charges for cable or video service.
 - b. Event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges.
 - c. Rental of set top boxes and other cable service or video service equipment.
 - d. Service charges related to the provision of cable service or video service, including but not limited to activation, installation and repair charges.
 - e. Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.
 - f. Late payment fees or charges, insufficient funds check charges and other charges assessed to recover the costs of collecting delinquent payments.
 - g. 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 the number of subscribers in the City divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.
 - h. 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 paragraph 1-H herein.
 - i. 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.

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

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

- a. Revenues not actually received, even if billed, such as bad debt, subject to 220 ILCS 5/21-801(c)(1)(vi).
- b. 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.
- c. 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 non-cable service or non-video 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.
- d. 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.
- e. 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.
- f. Security deposits collected from subscribers.
- g. 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.

Holder: 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.

Service: 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.

Service provider fee: The amount paid under this Chapter and 220 ILCS 5/21-801 by the holder to a City for the service areas within its territorial jurisdiction.

Video service: 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.

B. Cable/Video Service Provider Fee Imposed

1. Fee Imposed: A fee is imposed on any holder providing cable service or video service in the City.
2. Amount of Fee: The amount of the fee imposed shall be 5 percent of the holder’s gross revenues.
3. Notice to the City: The holder shall notify the City at least 10 days prior to the date on which the holder begins to offer cable service or video service in the City.
4. 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 30 days after receipt of the ordinance adopting this Chapter by the holder. The ordinance adopting this Chapter shall be sent by first class 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.
5. Payment Date: The payment of the service provider fee shall be due on a quarterly basis, 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.

6. Exemption: The fee 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.
7. 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 under Section 23.09-B(2).

C. Applicable Principles

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

D. 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.

E. Audits of Cable/Video Service Provider

1. 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 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.
2. Additional Payments: Any additional amount due after an audit shall be paid within 30 days after the City's submission of an invoice for the sum.

F. 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.*