

Council Bill/General Ordinance No. 3048-2023

Sponsor: _____

AN ORDINANCE

AMENDING Chapter 31, "TAXATION," of the Moline Code of Ordinances, by repealing Chapter 31 in its entirety and enacting in lieu thereof one new Chapter 31 dealing with the same subject matter; and

AUTHORIZING the increase of the Amusement Tax from 5 percent to 10 percent, effective January 1, 2024.

WHEREAS, the City is an Illinois municipal corporation possessing home rule powers under Section 6 of Article VII of the Illinois Constitution; and

WHEREAS, City staff has decided to do a complete review of all chapters of the Moline Code of Ordinances to correct those items that are merely housekeeping in nature; and

WHEREAS, the City Council finds that a number of housekeeping changes are necessary in Chapter 31 of the Moline Code of Ordinances; and

WHEREAS, at a meeting held on September 19, 2023, Council approved increasing the Amusement Tax by five percent (5%), to ten percent (10%), effective January 1, 2024; and

WHEREAS, the City Council hereby commits the proceeds from the increased five percent (5%) of the Amusement Tax to finance the annual capital improvement program adopted from time to time by the City; and

WHEREAS, the City Council directs and authorizes the Director of Finance to account for such revenue in a manner consistent with this Resolution.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

Section 1 – That Chapter 31, "TAXATION," of the Moline Code of Ordinances, is hereby amended by repealing Chapter 31 in its entirety and enacting in lieu thereof one new Chapter 31 dealing with the same subject matter, which shall read as attached (additions in underline; deletions in strikethrough).

Section 2 – All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed to the extent necessary to give effect to the provisions of this Ordinance.

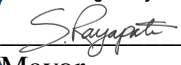
Section 3 – This ordinance and every provision thereof shall be considered severable. If any word, phrase, clause, sentence, paragraph, provision, section, or part of this Ordinance is found to be void, unconstitutional, or otherwise unenforceable, all remaining portions of this Ordinance not so declared void, unconstitutional, or unenforceable shall remain in full force and effect.

Section 4 – This Ordinance will be in full force and effect upon passage, approval and publication in pamphlet form in the manner provided by law.

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CITY OF MOLINE, ILLINOIS

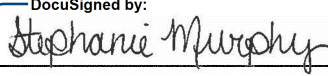
DocuSigned by:


Mayor
19898ED80D7E486...

November 14, 2023
Date

Passed: November 14, 2023

Approved: December 5, 2023

Attest: 

19898ED80D7E486...
City Clerk

CHAPTER 31

TAXATION

Art. I. Hotel and Vacation Rental Taxes, §31-1100 - §31-1107

Art. II. Foreign Fire Insurance Companies, §31-2100 - §31-2104

Art. III. Motor Fuel Tax, §31-3100 - §31-3106

Art. IV. Sales Tax, §31-4100 - §31-4101

Art. V. Amusement Tax, §31-5100 - §31-5108

Art. VI. Video Tax, §31-6100 - §31-6104

Art. VII. Prepared Food and Liquor Tax, §31-7100 - §31-7106

Art. VIII. Utility Tax, §31-8100 - §31-8111

~~**Art. IX. Taxpayers' Bill of Rights, §31-9100 - §31-9115**~~

Art. IX. Simplified Municipal Telecommunications Tax, §31-~~40400-9100~~ - §31-~~40408-9108~~

Art. XI. Municipal Gas Use Tax, §31-~~44400-10100~~ - §31-~~44403-10103~~

Art. XII. Cannabis Retailers' Occupation Tax, §31-~~42400-11100~~ - 31-~~112101~~

~~**Art. XII. Taxpayers' Bill of Rights, §31-~~912100~~ - §31-~~912115~~**~~

ARTICLE I. HOTEL AND VACATION RENTAL TAXES

SEC. 31-1100. DEFINITIONS.

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

(1) **Hotel.** Any building or structure, or portion thereof, in which the public may, for consideration, obtain living quarters or sleeping accommodations, including but not limited to those booked through online travel companies, businesses or websites, including Airbnb.com, VRBO.com, Craigslist.org or similar websites. The term includes motels, short-term rentals, inns, tourist homes, lodging houses, rooming houses, apartment houses and residential homes.

(2) **Online Travel Company** shall be referenced as **OTC** throughout this article, and means an organization that books, reserves, or rents hotel accommodations and makes other travel arrangements for consumers via the internet or other digital means.

(3) **Operator.** Operator means any person engaged in the business of selling or reselling the right to occupy hotel or vacation rental accommodations to the public, whether online, in person or otherwise.

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

(5) **Renter.** Renter means the user, lessee or tenant of a hotel room or vacation rental unit.

(6) **Room Rental Rate.** The consideration received as a condition for granting or reserving occupancy, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature. This shall also include (a) the net rate paid to the hotel by the OTC for room occupancy by the consumer, and (b) the amount retained by the OTC for travel-related services it provides to the traveler (sometimes referred to as a "facilitation fee"), and any additional amount retained by the OTC as compensation for its travel services to the consumer for the individual transaction, or in the instance of a direct rental of a room or rooms by the consumer with the hotel, the room rental rate shall mean the amount charged by the hotel directly to the consumer for the occupancy of the room. The room rental rate excludes any generally applicable taxes actually remitted to a government authority.

(7) **Vacation Rental Unit.** A dwelling unit or a habitable unit that is offered for rent, lease, or hire that is rented, leased or hired for a fixed period of less than thirty (30) days for which an owner or operator receives consideration from a person and that person has the right to use, occupy or possess the dwelling unit or habitable unit for said period.

SEC. 31-1101. HOTEL AND VACATION RENTAL USE TAX IMPOSED.

(a) There is hereby levied and imposed a tax of seven percent (7%) of the room rental rate charged for the privilege of

renting and use of a hotel room or vacation rental unit within the City of Moline for each twenty-four (24) hour period or any portion thereof for which a daily room charge is made.

(b) The ultimate incidence of any liability for payment of said tax is to be borne by the renter of a hotel room or vacation rental unit.

(c) The tax herein levied shall be paid in addition to any and all other taxes and charges. It shall be the duty of the owner, manager, OTC and/or operator of every hotel room and vacation rental unit to secure said tax from the renter of the hotel room or vacation rental unit and to issue payment to the ~~accounts and finance officer~~ director of finance of the City of Moline pursuant to said tax under procedures prescribed by the ~~accounts and finance officer~~ director of finance or as otherwise provided in this article.

(d) Every owner, operator and OTC shall be required to collect the tax levied by this article and shall secure said tax from the renter at the time said owner, operator and OTC collects the rental payment for the hotel room or vacation rental unit. Should the payment of the tax by the renter subsequently fail or otherwise not be able to be collected, the owner, operator and OTC shall not be liable to the City for said tax.

(e) The amounts collected by this tax shall be deposited in the General Fund of the City to be used for various purposes as determined by the City Council.

(Ord. No. 3031-2020; Sec. 31-1100(d) amended; 10/13/20)

SEC. 31-1102. SPECIAL SERVICE AREA NO. 7 HOTEL TAX.

In addition to all other taxes levied in this chapter, there is hereby levied and imposed upon all owners, operators and OTC engaged in the business of renting, leasing or letting hotel rooms within Special Service Area No. 7 a tax of two and one-tenth percent (2.1%) of the gross rental receipts from such renting, leasing or letting. Special Service Area No. 7 is generally located as follows: bounded on the West by 11th Street, bounded on the East by 14th Street, bounded on the South by the alley parallel to 4th Avenue and bounded on the North by the railroad tracks parallel to River Drive.

(a) The tax herein levied shall be paid in addition to any and all other taxes and charges. It shall be the duty of the owner and OTC of every hotel within Special Service Area No. 7 to pay over said tax to the ~~accounts and finance officer~~ director of finance of the City of Moline under procedures prescribed by the ~~accounts and finance officer~~ director of finance, or as otherwise provided in this article.

~~(a)(b)~~ Persons subject to any tax imposed by this Section may reimburse themselves for their tax liability for such tax by separately stating such tax as an additional charge.

~~(b)(c)~~ The amounts collected by this tax shall be expended solely for the ongoing maintenance of public amenities and facilities located within the boundaries of Special Service Area No. 7.

SEC. 31-1102A. SPECIAL SERVICE AREA NO. 5 HOTEL TAX.

(a) In addition to all other taxes levied in this chapter, there is hereby levied and imposed upon all owners, operators and OTC engaged in the business of renting, leasing or letting hotel rooms within Special Service Area No. 5 a tax of one percent (1%) of the gross rental receipts from such renting, leasing or letting. The boundaries of Special Service Area No. 5, Bass Street Landing, are generally described as the Mississippi River on the north, River Drive on the south, 19th Street on the east and the Arsenal Bridge on the west, with the exception of property owned by the City of Moline.

(b) The tax herein levied shall be paid in addition to any and all other taxes and charges. It shall be the duty of the owner and OTC of every hotel within Special Service Area No. 5 to pay over said tax to the ~~accounts and finance officer~~ director of finance of the City of Moline under procedures prescribed by the ~~accounts and finance officer~~ director of finance, or as otherwise provided in this article.

(c) The amounts collected by this tax shall be expended solely for the ongoing maintenance of public amenities and facilities located within the boundaries of Special Service Area No. 5.

SEC. 31-1103. BOOKS AND RECORDS.

The ~~accounts and finance officer~~ director of finance or authorized designee may enter the premises of any hotel or vacation rental unit or OTC for inspection and examination of records in order to effectuate the proper administration of this article, and to assure the enforcement of the collection of the taxes imposed. It shall be unlawful for any person to prevent, hinder, or interfere with the said ~~accounts and finance officer~~ director of finance or designee in the discharge of said director's duties in the performance of this article. It shall be the duty of every owner, operator and OTC to keep accurate and complete books and records to which the ~~accounts and finance officer~~ director of finance shall at all times have full access, which records shall include a daily sheet showing (1) the number of hotel rooms or vacation rental units rented during the twenty-four (24) hour period, including multiple rentals of the same hotel room or vacation rental units where such shall occur; and (2) the actual hotel or vacation rental unit tax receipts collection for the date in question.

SEC. 31-1104. TAX AND REPORT TRANSMITTAL OF TAX REVENUE.

~~(a) Commencing on the first day of April 1, 2019, the owner, operator and/or OTC of each hotel room or vacation rental unit within the City of Moline shall file tax returns showing tax receipts received with respect to each hotel room and vacation~~

~~rental unit during each month commencing on or after April 1, 2019. The return shall be due on or before the last day of each succeeding calendar month and the return shall indicate for what period the return is filed, i.e., the return filed on or before the last day of February shall indicate that it is for tax receipts for the period January 1 to January 31, inclusive. If the owner, operator and/or OTC's average monthly tax receipts do not exceed one hundred dollars (\$100.00) when using as a minimum the last six (6) consecutive months for a data base, the accounts and finance officer may authorize the owners to file the return on a quarterly basis, with the return for January, February and March of a given year being due on or before April 30 of such year; with the return for April, May and June of a given year being due on or before July 31 of such year; with the return for July, August and September of a given year being due on or before October 31 of such year; and the return for October, November and December of a given year being due on or before January 31 of the following year.~~

~~(a) The owner, operator and/or OTC of which collects the room rental rate for each hotel room or vacation rental unit within the City of Moline shall transmit to the finance department of the City of Moline for receipt by said department, no later than the last day of each calendar month, for the tax owing for the previous month, accompanied by a report upon forms supplied by said finance department, indicating the gross receipts from room rental rates from the facility along with payment to the City of all taxes imposed by this article which are due and owing.~~

~~(b) If for any reason any tax is not paid when due, a penalty at the rate of one and one-half percent (1½%) per thirty (30) day period, or portion thereof, from the date of delinquency shall be added and collected.~~

SEC. 31-1105. COLLECTION.

Whenever any owner, operator and/or OTC fails to ~~pay remit~~ any tax as herein provided, the city attorney, upon the request of the ~~accounts and finance officer~~ director of finance, shall bring or cause to be brought an action to enforce the ~~payment remittance~~ of said tax on behalf of the City in any court of competent jurisdiction.

SEC. 31-1106. PENALTIES.

~~(a) See the Taxpayer Bill of Rights Ordinance for all penalties and interest applicable to the taxes described in this Article. Any owner, operator and/or OTC found guilty of failing to pay, collect, report, or transmit said hotel or vacation rental unit tax to the accounts and finance officer~~ director of finance in accordance with the terms of this article shall, except when otherwise specifically provided, be guilty of an offense and upon the first conviction therefor within a two (2) year calendar period, be punished by a fine of not less than two hundred dollars (\$200.00) nor more than two hundred ninety nine dollars (~~\$299300.00~~), and upon the second and third convictions therefor within said period be punished by a fine of not less than three hundred dollars (\$300.00) nor more than seven hundred fifty dollars (~~\$750.00~~).

~~(b) A separate and distinct offense shall be regarded as committed each day upon which said person shall continue any violation of this article, or permit any such violation to exist after notification thereof.~~

SEC. 31-1107. SEVERABILITY.

If any provision of this article, on the application thereof to any person or circumstances, is held invalid, the remainder of this article and the application of such provisions to other persons or circumstances shall not be affected thereby.

(Ord. No. 3083-2004; Article I repealed; new Article I, "HOTEL-MOTEL TAXES," enacted; 10/12/04)

(Ord. No. 3011-2019; Article I repealed; new Article, I, "HOTEL AND VACATION RENTAL TAXES," enacted; 04/09/19)

ARTICLE II. FOREIGN FIRE INSURANCE TAX LICENSE FEES COMPANIES

SEC. 31-2100. DEFINITIONS.

~~For the purpose of this article, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this section:~~ Article 11, Division 10 of the Illinois Municipal Code, 65 ILCS 5/11-10-1, et seq.

~~**Foreign Fire Insurance Company.** All corporations, companies and associations not incorporated under the laws of the state and which are engaged in the City in effecting or soliciting fire insurance.~~

~~**Agent.** Any person acting for or on behalf of a foreign fire insurance company.~~

SEC. 31-2101. TAX LICENSE FEE IMPOSED; PERSONS LIABLE; AMOUNT; DUE DATE.

~~All corporations, companies and associations not incorporated under the laws of the state, and which are engaged in the City in effecting or soliciting fire insurance~~ Any foreign fire insurance company shall pay to the City ~~treasurer~~ director of finance on July 15, 1899, and annually thereafter, upon the fifteenth day of July of each ~~and every~~ year following, a sum equal to two percent (2%) of the gross receipts of premiums received by the corporation, company or association, or their agency or agents, for business effected or transacted for fire insurance within the City for the year ending the first day of July preceding the due date. The amount imposed shall be ~~as a tax or~~ license fee upon all such corporations, companies or associations transacting said business within the City.

SEC. 31-21042. TAX LICENSE AND ANNUAL REPORT TRANSMITTAL.

Each person acting as agent or otherwise, for or upon behalf of any such corporation, company or association, shall on or before the fifteenth day of July, ~~1899, and the fifteenth day of July~~ of each ~~and every~~ year thereafter, render the city

~~clerk~~ treasurer of the foreign fire insurance board a full, true and just account verified by oath of all of the premiums which, during the preceding year ending on the first day of July, ~~1899, and the first day of July of each and every year succeeding,~~ shall have been received by such person acting as agent or any other person for or upon behalf of such person, ~~in behalf of any such corporation, company or association,~~ and shall fully and specially set out in said report the amounts ~~or amounts~~ received as premiums for fire insurance.

~~**SEC. 31-2102. REMITTANCE OF TAX.**~~

The agent of a fire insurance company subject to this article shall also at the time of making of the annual report required by this article, pay to the ~~accounts and finance officer~~ treasurer of the foreign fire insurance board ~~director of finance~~ the sum of two percent (2%) upon the gross receipts of the corporation, company or association, obtained as premiums for effecting fire insurance in the City.

SEC. 31-2103. FAILURE TO PAY TAX-FEE TO TERMINATE RIGHT TO DO BUSINESS IN THE CITY.

If any account required by this article is not rendered on or before the due date, or if the tax or license fee shall remain unpaid after that day, it shall be unlawful for any such corporation, company or association, to transact any business of fire insurance in the City until the requirements of this article have been fully complied with; however, this section shall in no way affect the validity of any risk that may be taken in violation hereof, between such corporation, company or association, and the person so insured.

SEC. 31-2104. DISPOSITION OF REVENUE.

All funds received under the provisions of this article shall form and constitute a fund, separate and apart from all other funds of the City, for the maintenance, use and benefit of the Moline Fire Department. Said funds, when received, shall be paid over by the ~~accounts and finance officer~~ treasurer of the foreign fire insurance board ~~director of finance to the treasurer~~ ~~director of finance of the foreign fire insurance tax revenue administrative board~~ and it shall be ~~the treasurer~~ ~~director of finance's~~ ~~said treasurer's~~ duty to place all such funds in a fund designated the "Foreign Fire Insurance Tax-Fee Revenue Fund," which fund shall be under the care and supervision of the foreign fire insurance tax revenue administrative board.

ARTICLE III. MOTOR FUEL TAX

SEC. 31-3100. DEFINITIONS.

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

(1) **Biodiesel** means a fuel composed of mono alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, and meeting the requirements of ASTM (American Society for Testing Materials) D6751.

(2) **Bulk user** means any person who purchases motor fuel for storage in bulk storage facilities located within the City of Moline, which facilities are owned, leased or controlled by said person, for subsequent dispensing into the supply tanks of internal combustion engines operated by said person.

(3) **Compressed natural gas (cng)** means natural gas compressed to a pressure at or above 200-248 bar (i.e., 2900-3600 pounds per square inch) and stored in high-pressure containers. Compressed natural gas is subject to tax at the rate established in Section 31-3101(a), below. However, because compressed natural gas cannot be measured in gallons, it must be converted to gallons using a conversion factor. For purposes of calculating tax under the Motor Fuel Tax Ordinance, a gallon of compressed natural gas means a quantity of compressed natural gas equal to 126.67 cubic feet of natural gas at 60 degrees Fahrenheit and one atmosphere of pressure. In the alternative, it means a quantity of compressed natural gas that weighs 5.66 pounds.

(4) **Gasohol** means a fuel used chiefly in internal combustion engines which is comprised chiefly of gasoline and ethyl alcohols in variable quantities.

(5) **Gasoline or diesel fuel** means a volatile, highly flammable or combustible, liquid mixture of hydrocarbons produced by the fractional distillation of petroleum and used chiefly as a fuel in internal combustion engines, but shall not include mixtures commonly known as kerosene and aviation fuel, or mixtures used in the heating of buildings.

(6) **Motor fuel** means "gasohol" and "gasoline and diesel fuel" as defined in this section.

(7) **Person** means any natural person, trustee, court appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agency, contractor, supplier, vendor, vendee, operator, user or owner, or any officers, agents, employees, or other representative, acting either individually or for any other person in any capacity, or any other entity recognized by law as the subject of rights and duties.

The masculine, feminine, singular or plural is included in any circumstances.

(8) **Retail gasoline dealer** means any person who engages in the business of selling motor fuel in the City of Moline, to a purchaser for use or consumption and not for resale in any form.

(9) **Sale, resale, selling** means any transfer of ownership or possession, or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever for a valuable consideration.

(Ord. No. 3036-2014; Article III repealed; new Article III enacted; 12/16/14)

SEC. 31-3101. TAX IMPOSED.

(a) There is hereby levied and imposed upon the purchase of each gallon of motor fuel, or fraction thereof, sold at retail within the corporate limits of the City of Moline, irrespective of the unit of measure in which it is actually sold, a tax at the rate of one cent (\$0.010) per gallon. The tax herein levied shall be paid in addition to any and all other taxes and charges.

(Ord. No. 3082-3101; Sec. 31-3101 (a) repealed; new Sec. 31-3101 enacted; 10/12/04)

(b) The ultimate incidence of and liability for payment of said tax is to be borne by the retail purchaser of motor fuel. Nothing in this article shall be construed to impose a tax upon the occupation of persons engaged in the retail sale of motor fuel.

(c) It shall be the duty of every retail gasoline dealer to secure said tax from the purchaser at the time said dealer collects the purchase price for the motor fuel and to pay over said tax to the City of Moline, ~~Department of Accounts and Finance~~Department of finance, as provided in this article except in the case of a sale to a bulk user, in which case the bulk user shall pay over said tax to the City of Moline, ~~Department of Accounts and Finance~~Department of finance, as provided in this article.

(d) A retail gasoline dealer may make tax free sales with respect to which said dealer is otherwise required to collect the tax when the sale is made to the Federal Government, the State of Illinois, any municipality or unit of local government as those terms are defined by Section 1 of Article VII of the Constitution of the State of Illinois, 1970, or any school district.

SEC. 31-3102. TAX AND REPORT TRANSMITTAL.

(a) Every retail gasoline dealer shall transmit to the ~~department of accounts and finance~~department of finance of the City of Moline for receipt by said department, no later than the last day of each calendar month, a sum of money equal to the amount of motor fuel tax collected for the preceding calendar month, accompanied by a report upon forms supplied by said ~~department of accounts and finance~~department of finance, indicating the gross gallons of motor fuel sold for the said preceding calendar month, and such other information as the ~~department of accounts and finance~~department of finance may require for enforcement of this article.

(b) Every bulk user shall transmit to the ~~department of accounts and finance~~ department of finance of the City of Moline for receipt by said department, no later than the last day of each calendar month, a sum of money equal to the amount of motor fuel tax owing for the preceding calendar month, accompanied by a report upon forms supplied by said department of ~~accounts and~~

finance indicating the gross gallons of motor fuel purchased for said preceding calendar month and such other information as the ~~department of accounts and finance~~department of finance may require for enforcement of this article.

SEC. 31-3103. RECORDS, INSPECTIONS.

- (a) Every retail gasoline dealer shall keep complete and accurate records, including a daily sheet showing the gross gallons of motor fuel sold for each day, and the amount of motor fuel tax collected on each day.
- (b) Every bulk user shall keep complete and accurate records of purchases of motor fuel, including the dates of the purchases, the gross gallons purchased on each of said dates, and the names and addresses of the retail gasoline dealers from whom each of said purchases were made.
- (c) For the purpose of administering and enforcing this article, the ~~department of accounts and finance~~department of finance shall have the right to inspect all books, records and reports of retail gasoline dealers and bulk users during their normal business hours.

SEC. 31-3104. ACCOUNTING.

The ~~department of accounts and finance~~department of finance of the City of Moline shall deliver the proceeds of the motor fuel tax imposed by this article to the City ~~accounts and finance officer~~director of finance for deposit to the general fund.

SEC. 31-3105. PENALTY, INTEREST ON DELINQUENT TAXES, ENFORCEMENT.

~~(a) See the Taxpayer Bill of Rights Ordinance for all penalties and interest applicable to the taxes described in this Article. Any person who violates any provision of this article, upon conviction thereof, shall be punished by a fine of not less than two hundred dollars (\$200.00) nor more than three hundred dollars (\$300.00) for the first offense and not more than seven hundred fifty dollars (\$750.00) for the second and each subsequent offense committed within any one hundred eighty (180) day period. Each day during which such violation continues shall be regarded as a separate punishable offense. (Ord. No. 98-2-6; §31-3105 (a) repealed; new §31-3105 (a) enacted; 02/03/98) If for any reason any tax is not paid when due, interest shall be added at the rate of one and one half one-half percent (11.5 ½%) per month on the amount of delinquent tax, calculated from the first day of delinquency.~~

(b) Whenever any person shall fail to pay any tax as herein provided, or otherwise violates any provision of this article, the city attorney shall bring or cause to be brought an action on behalf of the City of Moline in any court of competent jurisdiction to enforce this article and collect any delinquent tax, interest and penalties.

SEC. 31-3106. EFFECTIVE DATE, SEVERABILITY.

- (a) The motor fuel tax shall be levied, imposed and collected from the first day of the month after the effective date of this article.
- (b) If any one or more provisions of this article, or any clause, sentence or paragraph thereof, or the application thereof to any person or circumstance is held invalid, the remainder of this article and the application of such provisions or clause, sentence or paragraph thereof as to other persons or circumstances shall not be affected thereby.

ARTICLE IV. SALES TAX

SEC. 31-4100. DEFINITIONS.

~~For the purpose of this article, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this section: the Retailers' Occupation Tax Act and/or the Service Occupation Tax Act.~~

~~**Home Rule.** A municipality with home rule status may exercise any power and perform any function unless it is specifically prohibited from doing so by state law.~~

~~**Home Rule Tax.** The corporate authorities of a home rule unit of local government may impose a tax upon all persons who are 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 or qualifying food or qualifying medical items, at retail in their jurisdiction.~~

SEC. 31-4101. IMPOSED.

(a) A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this state's government or qualifying food or qualifying medical items, at retail in this municipality at the rate of one ~~and one-quarter~~ percent (1.~~25~~)% of the gross receipts from such sales made in the course of such business; 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 ~~and one-quarter~~ percent (1.~~25~~)% of the selling price of all tangible personal property transferred by such an incident to a sale of service.

~~(b) Effective January 1, 2010, the taxes imposed pursuant to subsection (a) above shall be at the rate of one and one-~~

~~quarter percent (1.25%).~~

~~(c)~~(b) The imposition of ~~these home rule~~ the taxes herein described is in accordance with the provisions of Sections 8-11-1 and 8-11-5, respectively, of the "Illinois Municipal Code" (65 ILCS 5/8-11-1 and 65 ILCS 5/8-11-5).

(Ord. No. 98-6-7; Sec. 31-4100 repealed; new Sec. 31-4100 enacted; 06/23/98; Ord. No. 99-7-5; Sec. 31-4100 repealed; new Sec. 31-4100 enacted; 07/27/99; Ord. No. 2003-09-08; Sec. 31-4000 repealed; new Sec. 31-4100 enacted; 09/29/03; Ord. No. 3019-2009; Sec. 31-4100 amended; 09/08/09)

SEC. 31-410~~1~~². ENFORCEMENT; PENALTIES.

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.

ARTICLE V. AMUSEMENT TAX

SEC. 31-5100. DEFINITIONS.

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

(1) **Admission fee** means the sum of money or other property charged by the amusement for the privilege of permitting a person or persons to enter, to witness, and/or to participate in such an amusement.

~~(2) **Amusement** means: (1) any exhibition, performance, presentation or show for entertainment purposes, including, but not limited to, any theatrical, dramatic, musical or spectacular performance, promotional show, motion picture show, flower, poultry or animal show, animal act, circus, rodeo, athletic contest, sport, game or similar exhibition such as boxing, wrestling, skating, dancing, swimming, racing, or riding on animals or vehicles, baseball, basketball, softball, football, tennis, golf, hockey, track and field games, bowling or billiard or pool games; (2) any entertainment or recreational activity offered for public participation or on a membership or other basis including, but not limited to, carnivals, amusement park rides and games, bowling, billiards and pool games, dancing, tennis, racquetball, swimming, weightlifting, bodybuilding or similar activities; or (3) any paid television programming, whether transmitted by wire, cable, fiber optics, laser, microwave, radio, satellite or similar means. "Amusement" does not include lawful gambling at a casino, as that term is defined in 230 ILCS 10/4. means any performance, show, exhibition, recreational activity, entertainment, or the like, including, but not limited to each of the items listed at the end of the definition of this term "amusement" offered, operated and presented, or exhibited for gain or for which a fee for participation or admission is charged. The list to which reference is heretofore made is:~~

~~(3) All baseball, basketball, football, hockey or similar games or sports, including all athletics, exhibitions or performances presented, given or conducted in any building or under canvas or other covering or within any enclosure.~~

~~(4) All swings and all itinerant shows such as bird shows, galvanic batteries, lifting machines, blowing and striking machines and all other exhibitions and devices and performances given or performed from place to place in the City.~~

~~(5) All shows featuring poultry, horses, other stock, flowers, dogs, cats, automobiles and any other show or exhibition of a light character, intended to represent any sport, art, science or the progress or development of the same.~~

~~(6) All merry-go-rounds and revolving wheels carrying passengers, slides, roller skating rinks or ice rinks or ice shows and all similar amusement devices, exhibitions, performances or entertainments not included in or carried on as a part of class (k) as hereinafter described.~~

~~(7) When several amusement enterprises such as shooting the chutes, revolving wheels, merry-go-rounds, shooting galleries, giant swings, panoramas, musical and theatrical entertainment and various other devices or entertainments are carried on, engaged in or conducted in any enclosure, whether carried on, engaged in or conducted as one enterprise or by several concessionaires and whether one admission or a separate fee is charged to each amusement enterprise, the various entertainments offered shall, for the purpose of this article, be considered as one enterprise and shall belong and be known as entertainments of the K class.~~

~~(8) Any enclosure in which musical entertainment, whether instrumental or vocal, or both, is furnished.~~

~~(9) All entertainment of the theatrical, dramatic or operative character.~~

~~(10) All lectures, readings or recitations, exhibitions of paintings or statuary or other exhibitions of art.~~

~~(11) All musical entertainment consisting solely of vocal and instrumental music or of the nature of an opera, but being what is commonly styled or known as a "concert."~~

~~(12) All circuses and menageries, wild west shows or entertainment of light character, caravans, exhibitions of monsters or freaks of nature, street fairs and carnivals.~~

~~(13) All sideshows, concerts, minstrel or musical entertainment, commonly given under a covering of canvas or within any structure or enclosure, intended for temporary use and capable of easy transfer and removal.~~

~~(14) All exhibitions of motion pictures, moving pictures and cinema, or closed circuit television or other television exhibited for consideration, and not generally available on a free or no cost basis to the viewing public.~~

~~(15) Dances, bazaars and other entertainment of light character conducted, carried on or engaged in, in any hall, structure or building.~~

~~(16) Exhibitions of fireworks.~~

~~(17) Any entertainment carried on, conducted or engaged in any place of the kind commonly known as a mutoscope parlor or penny arcade or entertainment furnished through or by one or more automatic moving picture devices.~~

~~(18)(2) Any collection of animals commonly known as a zoo kept for public exhibition.~~

~~(19)(3) **Owner** means any person having a sufficient proprietary interest in conducting the operation of an amusement so as to entitle such a person or its organization to all or a portion of the net receipts thereof.~~

~~(20)(4) **Person** means any natural person, trustee, court-appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agency, government corporation, municipal corporation, district or other political subdivision, contractor, supplier, vendor, vendee, operator, user or owner; or any~~

officers, agents, employees or other representative, acting either individually or for any other person in any capacity; or any other entity recognized by law as the subject of rights and duties.

SEC. 31-5101. LEVIED.

(a) A tax is hereby levied and imposed upon all persons exercising the privilege of participating in or witnessing all amusements within the City of Moline where such amusements are witnessed or participated in a facility of any sort where the gross seating capacity of such facility is eight thousand (8,000) or more; said tax shall be at the rate of ~~five-ten~~ percent (510%) of the admission fee charged to such amusement exclusive of building charges, or other state or federal taxes; provided,

however, that such tax shall not apply to or be imposed upon any consumer attending or participating in an amusement owned by:

(1) Grammar, junior high and high schools located in the City.

(b) The ultimate incidence of and liability for payment of such tax shall be borne by the person who seeks participation or admission to any such amusement, such person herein referred to as "consumer."

(c) The tax herein levied shall be paid in addition to any and all other taxes and charges. It shall be the duty of the owner, manager or operator of every amusement in the City to act as trustee for and on account of the City and to secure such tax from the consumer and pay over to the ~~accounts and finance officer~~ director of finance such tax under procedures prescribed by the ~~accounts and finance officer~~ director of finance or as otherwise provided in this article.

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

~~(e)~~ The City commits 50% of the annual amusement tax proceeds to finance a portion of the annual City's Special Capital Projects Fund. ~~capital improvement program.~~

~~(e) The tax rate shall be decreased to three percent (3%) effective June 1, 2023, if the City Council publishes notice of such rescission by December 1, 2022. Otherwise, the five percent (5%) tax rate shall remain in effect unless this ordinance is otherwise amended or repealed.~~

(Ord. No. 3022-2018; Sec. 31-5101 repealed; new Sec. 31-5101 enacted; 05/22/18)

SEC. 31-5102. BOOKS AND RECORDS.

The ~~accounts and finance officer~~ director of finance or said officer's designee may enter the premises of the amusement at any reasonable time for inspection and examination of books and records in order to effectuate the proper administration of this article and to ensure the enforcement of the collection of the tax imposed. It shall therefore be the duty of every owner to keep accurate and complete books and records sufficient to effectuate the purpose of this article.

SEC. 31-5103. TAX AND REPORT TRANSMITTAL OF TAX REVENUE.

(a) That on or before the last day of each calendar month succeeding the end of the monthly taxing period, commencing after the effective date of this Ordinance, the owner or owners of each amusement within the City which is subject to this ordinance shall file a written report on forms prescribed by the ~~accounts and finance officer~~ director of finance, which report shall state the total number of paid admissions for the amusement as defined herein and the total tax collected for each such reporting period.

(b) The ~~first~~ taxing period for the purpose of this article shall commence on ~~April 10, 1994 and continue through the month of April, 1994, and the tax return and payment for such period shall be due on or before May 31, 1994. All taxing periods commencing May 1, 1994 and thereafter shall commence on~~ the 1st day of each month, and the tax payments shall be due on or before the last day of the following month. All tax payments shall be made to and collected by the ~~accounts and finance officer~~ director of finance on the last day of each month for the prior calendar month.

(Ord. No. 94-3-7; §31-5103(b) repealed; new subsection enacted; 03/22/94)

(c) In case any person who is required under this article to file a tax report to the City fails to file a report when and as required under this article, or fails to pay such tax when due or herein required, or refuses to allow the inspection of books or records as herein required by this ordinance, such person shall be fined in a sum not to exceed five hundred dollars (\$500.00), exclusive of costs. If a person willfully and knowingly makes a false report to the City, such person shall be fined not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00), each exclusive of costs.

(d) Any officer or employee of any corporation who is an owner subject to the provisions of this article who has the control, supervision or responsibility of collecting tax proceeds, filing returns, and transmitting collected tax proceeds of the tax imposed by this article and who willfully fails to file such return or to transmit any tax proceeds so collected to the City shall be personally liable for any such amounts collected, including interest thereon, if after proper proceedings for the collection of such amount, such corporation is unable to pay such amounts to the City, and the personal liability of such officer or employee as provided in this article shall survive dissolution of the corporation. For purposes of this subsection, a person willfully fails to act if such person takes any conscious and voluntary action intending not to perform any of said person's obligations hereunder including but not limited to the utilizing of tax proceeds collected for the City to pay any other

corporate obligations.

SEC. 31-5104. COLLECTION.

Whenever any person shall fail to pay any tax as provided in this article, the city attorney or said attorney's designee shall, upon the request of the ~~accounts and finance officer~~director of finance, bring or cause to be brought an action to enforce the payment of such tax on behalf of the City in any court of competent jurisdiction.

SEC. 31-5105. PROCEEDS OF TAX AND FINES.

All proceeds resulting from the imposition of the tax under this article, including penalties, shall be paid into the City and shall be credited to and deposited in the general trust fund of the City. ~~Three percent (3%)~~One half of the proceeds shall be placed in

the Capital Improvement Project Reserve Account ~~(60%) and .The remaining two percent (2%) of the proceeds shall be placed~~ in an Operations Reserve Account ~~(40%) and returned to the downtown civic center to .These proceeds shall~~ be used to fund capital and operations costs for the ~~Taxpayer Center at the discretion of the City~~civic center. The remaining half of the tax proceeds shall be placed in the City's Special Capital Projects Fund.

(Ord. No. 3022-2018; Sec. 31-5101 repealed; new Sec. 31-5101 enacted; 05/22/18)

SEC. 31-5106. SUSPENSION OF LICENSES.

If the city administrator, after a hearing held by the administrator or for the administrator, shall find that any person has willfully avoided payment of the tax imposed by this article, said administrator may suspend or revoke all City licenses held by such tax evader, unless otherwise limited by state liquor laws. The owner, manager, or operator of the amusement shall have an opportunity to be heard at such hearing to be held not less than five (5) days after notice of the time and place of the hearing to be held, addressed to said owner, manager or operator at the last known place of business of said owner, manager or operator.

SEC. 31-5107. PENALTIES.

See the Taxpayer Bill of Rights Ordinance for all penalties and interest applicable to the taxes described in this Article. ~~Any person found guilty of violating, disobeying, omitting, neglecting, or refusing to comply with, or resisting or opposing the enforcement of any of the provisions of this article, except when otherwise specifically provided, upon conviction thereof, shall be punished by a fine of not less than two hundred dollars (\$200.00) nor more than three hundred dollars (\$300.00) for the first offense and not less than three hundred dollars (\$300.00) nor more than seven hundred fifty dollars (\$750.00) for the second and subsequent offense in any one hundred eighty (180) day period.~~

(Ord. No. 98-2-6; §31-5107 repealed; new §31-5107 enacted; 02/03/98)

SEC. 31-5108. PURPOSE OF PENALTIES.

The purpose of imposing penalties for the violation of this article is to insure the integrity of the collection process established pursuant to this article.

(Ord. No. 94-2-2; New Article V enacted; 02/15/94)

ARTICLE VI. VIDEO TAX

SEC. 31-6100. DEFINITIONS.

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

- (1) **Video** means any ~~videotaped~~digital video recording, video game or video equipment generally offered for rental to customers.
- (2) **Gross receipts** means the consideration received for the leasing of videos, valued in money, whether received in money or otherwise, including cash, credits, services and property of every kind and nature, and shall be determined without any deduction on account of the cost of videos, the labor of service costs, or any other expenses whatsoever.
- (3) **Person** means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, or political subdivision of this state, or a receiver, trustee, conservator, or other representative appointed by order of any court.
- (4) **Taxpayer** means a person engaged in the business of leasing videos within the corporate limits of the City of Moline.

SEC. 31-6101. LEVIED TAX AND REPORT SUBMITTAL.

(a) A tax is hereby levied and imposed upon all persons engaged in the business of leasing videos within the corporate limits of the City of Moline at a rate of five percent (5%) of the gross receipts from the business ~~commencing April 1, 1994.~~

(b) ~~On or before May 30, 1994 e~~Each taxpayer shall file a return and pay the required tax to the ~~accounts and finance officer~~director of finance for the month ~~of April, 1994. O~~on or before the last day of each month ~~thereafter~~, each taxpayer

shall make a return to the ~~accounts and finance officer~~director of finance for the prior calendar month stating the following information:

- (1) The taxpayer's name;
- (2) The address of the taxpayer's principal place of business;
- (3) The taxpayer's gross receipts from renting of videos;
- (4) The amount of tax computed on the total of the gross receipts referred to in ~~Sec 31~~Sec. 31-6101(b)(3) above; and
- (5) Other reasonable information that the ~~accounts and finance officer~~director of finance may require.

(c) In making the return, the taxpayer shall determine the value of actual consideration other than money received by the taxpayer. This determination shall be subject to review and revision by the ~~accounts and finance officer~~director of finance as provided in Sec. 31-6102 for correction of returns.

SEC. 31-6102. RETURN CORRECTIONS.

If the ~~accounts and finance officer~~director of finance has reason to believe and does believe that any return is incorrect, after notice to the taxpayer and an opportunity to be heard, said ~~accounts and finance officer~~director of finance shall make any and all corrections to the return said officer deems necessary using said officer's best judgment and information available. Any return so corrected by the ~~accounts and finance officer~~director of finance shall be prima facie correct. Any additional sums due as a result of corrections so made shall become immediately due and payable.

SEC. 31-6103. RULES AND REGULATIONS.

The ~~accounts and finance officer~~director of finance is authorized to make reasonable rules and regulations relating to the administration and enforcement of this article as said officer may deem expedient.

SEC. 31-6104. FAILURE TO MAKE RETURN/MAKE PAYMENTS AS REQUIRED.

See the Taxpayer Bill of Rights Ordinance for all penalties and interest applicable to the taxes described in this Article.

~~(a) In case any taxpayer fails to make a return when and as required by this article, the accounts and finance officer~~director of finance, after notice to the taxpayer and an opportunity to be heard, shall determine the amount of the tax according to said officer's best judgment and information. This amount, when so fixed shall be prima facie correct.

~~(b) In addition to the foregoing provisions of (a) hereinabove, the failure to submit a return as required by this ordinance shall be deemed to be an offense which shall be punishable by a fine not to exceed seven hundred dollars (\$750.00). Each and every day that a taxpayer fails to file a return shall be deemed to constitute a separate and distinct offense.~~

~~(c)(a) In case any taxpayer fails to make any required payments, either at the time of the filing of the return or at the time of a finding of additional taxes due as a result of a corrected return, said taxpayer shall be deemed to have committed an offense which shall be punishable by a fine not to exceed seven hundred dollars (\$750.00). Each and every day that a taxpayer fails to make any payment shall be deemed to constitute a separate and distinct offense.~~

ARTICLE VII. PREPARED FOOD AND LIQUOR TAX

SEC. 31-7100. DEFINITIONS.

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

(1) **Liquor:** Any alcohol, spirits, wine or beer as defined, set forth and regulated by Chapter 4 of the Moline Code of Ordinances, which is sold at retail either for consumption on the premises where sold, or is sold in its original packages for consumption off the premises.

(2) **Prepared Foods:** Any solid, liquid (including both alcoholic and non-alcoholic liquid), powder or other food substance used, or intended to be used, for human consumption, and which has been prepared for immediate consumption on and/or off the premises. With respect to food purchased for consumption off the premises, "prepared food" or "prepared foods" shall not mean or include any food, except liquor, which is sold in closed or sealed bottle, can, carton, container or wrapper of the manufacturer or wholesaler.

(3) **Purchase at Retail:** To obtain for use or consumption in exchange for a consideration, whether in the form of money, credits, barter or any nature, and not for resale.

(4) **Retailer:** Any person who sells or offers for sale, prepared food and/or liquor for use and not for resale.

(5) **Prepared food facility:** Establishments subject to the licensing requirements of Chapter 14 of the Moline Code of Ordinances as a food establishment which sells prepared food at retail for immediate consumption and which provides for on and/or off premises consumption whether or not such facility is conducted along with any other use(s) in a common premise or business establishment.

A prepared food facility does not include food stores (except facilities therein which sell prepared food and liquor), employee cafeterias, churches, public or private schools, boarding houses, day care centers, nursing homes, retirement centers or similar residential care facilities or programs for the central preparation of meals to be delivered and consumed at private residences of invalids or the elderly, coin-operated automatic food item dispensing machines, hospitals (except facilities wherein subject to the State of Illinois Retailer Occupation Tax pertaining to food sales) and not-for-profit associations or corporations.

(6) **Liquor facility:** Any establishment licensed under the provisions of Chapter 4 of the Moline Code of Ordinances.

SEC. 31-7101. TAX IMPOSED.

(a) There is hereby levied and imposed, a tax, in addition to any and all other taxes, upon the purchase of prepared food and liquor, at retail ~~on from~~ any prepared food facility or liquor facility within the City of Moline, at the rate of one ~~and one-half~~ percent (1.5%) of the sales price of such prepared food and liquor. ~~Effective January 1, 2010, the tax imposed pursuant to this Section shall be at the rate of one and one-half percent (1.5%) of the sales price of such prepared food and liquor.~~

(b) The ultimate incidence of and liability for payment of said tax is to be borne by the retail purchaser. _

(c) It shall be the duty of every retail prepared food facility or liquor facility within the City of Moline to secure said tax from the purchaser at the time said facility collects the purchase price and pay over said tax to the City of Moline, finance department, as provided in this article.

(Ord. No. 3018-2009; Sec. 31-7101 amended; 09/08/09)

SEC. 31-7102. TAX AND REPORT TRANSMITTAL.

~~(a)~~(b) The owner and operator of each prepared food facility or liquor facility within the City of Moline shall transmit to the director of finance department of the City of Moline for receipt by said department officer, no later than the last day of each calendar month, for tax owing for the previous month, accompanied by a report upon forms supplied by said finance department, indicating the gross receipts from the facility along with payment to the City of all taxes imposed by this article which are due and owing.

~~(b)~~(c) The prepared food and liquor tax form shall be accompanied by a copy of the ST-1 form filed with the Illinois Department of Revenue for sales within the City of Moline.

SEC. 31-7103. RECORDS, INSPECTIONS.

(a) Every prepared food facility and liquor facility shall keep complete and accurate records, including a daily sheet showing receipts for each day and the amount of prepared food and liquor tax collected.

(b) For the purpose of administering and enforcing this article, the finance department shall have the right to inspect all books, records and reports of gross receipts for the sale of prepared food and liquor, which shall be made available to the City upon reasonable notice, during customary business hours.

SEC. 31-7104. TRANSMISSION OF EXCISE TAX COLLECTIONS.

If any person collects an amount upon a sale not subject to the tax imposed hereby, but which amount is purported to be the collection of the tax, or if a person collects an amount upon a sale greater than the amount of the tax imposed herein and does not for any reason return it to the purchaser who paid it before filing the return for the period in which it occurred, that person shall account for and pay over those amounts to the City along with the tax properly collected.

SEC. 31-7105. PENALTY, INTEREST ON DELINQUENT TAX, ENFORCEMENT.

See the Taxpayer Bill of Rights Ordinance for all penalties and interest applicable to the taxes described in this Article. [The City may take all actions allowed by law to enforce payment of said tax.](#)

~~(a) If any person operating a prepared food facility or a liquor facility within the City fails or omits to pay any tax when due, interest shall be added at the rate of one and one half percent (1.5½%) per month on the amount of delinquent tax, calculated from the first day of delinquency, until such time as the delinquent tax is paid.~~

~~(b) Failure of any person operating a prepared food facility or liquor facility to collect, account for and remit the tax and any late payment interest to the City may be enforced by action in any court of competent jurisdiction. Any person who violates any provision of this article, upon conviction thereof, shall be punished by a fine of not less than two hundred dollars (\$200.00) nor more than three hundred dollars (\$300.00) for the first offense and not more than seven hundred fifty dollars (\$750.00) for a second and each subsequent offense committed within any one hundred eighty (180) day period. Each day during which such violation continues shall be regarded as a separate punishable offense.~~

~~(c) In addition to court action, failure of any person operating a prepared food facility or liquor facility to collect, account for and remit the tax and any late payment interest to the City shall be cause for suspension or revocation of any City license issued to the facility's premises.~~

~~(d) Any person failing to maintain or allow examination of the books and records provided herein or elsewhere by law or ordinance, upon conviction, shall be fined not less than two hundred dollars (\$200.00) nor more than seven hundred fifty dollars (\$750.00) for each offense, and each day a violation continues shall be considered a separate violation.~~

(Ord. No. 3001-2014; Sec. 31-7105 repealed; new Sec. 31-7105 enacted; 01/28/14)

SEC. 31-7106. EFFECTIVE DATE, SEVERABILITY.

(a) ~~The effective date of this article shall be February 1, 2005.~~ The prepared food and liquor tax shall be levied, imposed and collected as of the effective date of this article.

(b) If any one or more provisions of this article, or any clause, sentence or paragraph thereof, or the application thereof to any person or circumstance is held invalid, the remainder of this article and the application of such provisions or clause, sentence or paragraph thereof as to other persons or circumstances shall not be affected thereby.

(Ord. No. 3093-2004; new Article VII "PREPARED FOOD AND LIQUOR TAX" enacted; 11/16/04)

ARTICLE VIII. UTILITY TAX

SEC. 31-8100. DEFINITIONS.

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

- (1) **Gross receipts** means the consideration received for the transmission of messages, or for distributing, supplying, furnishing or selling gas and electricity for use or consumption and not for resale, as the case may be; and for all service 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 such messages, or 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.
- (2) **Person** means 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, conservator or other representative appointed by order of any court. Notwithstanding the foregoing, no municipal utility tax shall be assessed upon bills for utility service rendered to the municipality itself.
- (3) **Person Maintaining a Place of Business in this State** means any person having or maintaining within the State of Illinois, directly or by 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 of Illinois 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 of Illinois state permanently or temporarily, or whether such person, subsidiary or other affiliate is licensed or qualified to do business in the State of Illinois.
- (4) **Purchase at Retail** means any acquisition of electricity by a purchaser for the purposes of use or consumption, and not for resale, but shall not include the use of electricity by a public utility as defined in Section 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-2), directly in the generation, production, transmission, delivery or sale of electricity.
- (5) **Purchaser** means any person who uses or consumes within the corporate limits of the City of Moline, electricity acquired in a purchase at retail, other than from an exempt purchaser.
- (6) **Tax Collector** means the person delivering electricity to the purchaser.
- (7) **Transmitting Messages** means, in addition to the usual and popular meaning of person to person communication, the furnishing, for a consideration, of services or facilities, (whether leased or owned) 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 or to other persons, for the transmission of messages.

SEC. 31-8101. IMPOSED.

A tax is hereby imposed on all persons engaged in the following occupations or privileges:

- (1) Persons engaged in the business of distributing, supplying, furnishing or selling gas for use or consumption within the corporate limits of the City of Moline and not for resale, at the rate of ~~one percent (1%) of the gross receipts therefrom. This tax shall be imposed beginning with the first bill issued to such customers on or after May 1, 2010, whichever issuance occurs sooner. Beginning with the first bill issued to such customers on or after January 1, 2011, the rate will be three percent (3%) of the gross receipts therefrom. Beginning with the first bill issued to such customers on or after January 1, 2012, the rate will be five percent (5%) of the gross receipts therefrom.~~

- (2) Pursuant to Section 8-11-2 of the Illinois Municipal Code and any and all other applicable authority, a tax is imposed upon the privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the City of Moline.

a.—The following tax rates calculated on a monthly basis for each purchaser shall be imposed beginning with the first bill issued to such customers on or after September 1, 2023~~beginning with the first bill issued to such customers on or after May 1, 2010, whichever issuance occurs sooner;~~

- ~~b.—For the first 2,000 kilowatt hours used or consumed in a month: 0.1220 cents per kilowatt hour;~~
- ~~c.—For the next 48,000 kilowatt hours used or consumed in a month: 0.0800 cents per kilowatt hour;~~
- ~~d.—For the next 50,000 kilowatt hours used or consumed in a month: 0.0720 cents per kilowatt hour;~~
- ~~e.—For the next 400,000 kilowatt hours used or consumed in a month: 0.0700 cents per kilowatt hour;~~
- ~~f.—For the next 500,000 kilowatt hours used or consumed in a month: 0.0680 cents per kilowatt hour;~~
- ~~g.—For the next 2,000,000 kilowatt hours used or consumed in a month: 0.0640 cents per kilowatt hour;~~
- ~~h.—For the next 2,000,000 kilowatt hours used or consumed in a month: 0.0630 cents per kilowatt hour;~~
- ~~i.—For the next 5,000,000 kilowatt hours used or consumed in a month: 0.0620 cents per kilowatt hour;~~

~~j. For the next 10,000,000 kilowatt hours used or consumed in a month: 0.0610 cents per kilowatt hour;~~

~~k. For all electricity used or consumed in excess of 20,000,000 kilowatt hours used or consumed in a month: 0.0600 cents per kilowatt hour.~~

~~l.—On or after January 1, 2011, the tax rate will be the following:~~

~~m.—For the first 2,000 kilowatt-hours used or consumed in a month: 0.3660 cents per kilowatt-hour;~~

~~n.—For the next 48,000 kilowatt-hours used or consumed in a month: 0.2400 cents per kilowatt-hour;~~

~~o.—For the next 50,000 kilowatt-hours used or consumed in a month: 0.2160 cents per kilowatt-hour;~~

~~p.—For the next 400,000 kilowatt-hours used or consumed in a month: 0.2100 cents per kilowatt-hour;~~

~~q.—For the next 500,000 kilowatt-hours used or consumed in a month: 0.2040 cents per kilowatt-hour;~~

~~r.—For the next 2,000,000 kilowatt-hours used or consumed in a month: 0.1920 cents per kilowatt-hour;~~

~~s.—For the next 2,000,000 kilowatt-hours used or consumed in a month: 0.1890 cents per kilowatt-hour;~~

~~t.—For the next 5,000,000 kilowatt-hours used or consumed in a month: 0.1860 cents per kilowatt-hour;~~

~~u.—For the next 10,000,000 kilowatt-hours used or consumed in a month: 0.1830 cents per kilowatt-hour;~~
~~v.—For all electricity used or consumed in excess of 20,000,000 kilowatt-hours used or consumed in a month: 0.1800 cents per kilowatt-hour.~~

~~w.a. _____ On or after January 1, 2012, the tax rate will be the following:~~

~~1. For the first 2,000 kilowatt-hours used or consumed in a month: 0.6100 cents per kilowatt-hour;~~

~~2. For the next 48,000 kilowatt-hours used or consumed in a month: 0.4000 cents per kilowatt-hour;~~

~~3. For the next 50,000 kilowatt-hours used or consumed in a month: 0.3600 cents per kilowatt-hour;~~

~~4. For the next 400,000 kilowatt-hours used or consumed in a month: 0.3500 cents per kilowatt-hour;~~

~~5. For the next 500,000 kilowatt-hours used or consumed in a month: 0.3400 cents per kilowatt-hour;~~

~~6. For the next 2,000,000 kilowatt-hours used or consumed in a month: 0.3200 cents per kilowatt-hour;~~

~~7. For the next 2,000,000 kilowatt-hours used or consumed in a month: 0.3150 cents per kilowatt-hour;~~

~~8. For the next 5,000,000 kilowatt-hours used or consumed in a month: 0.3100 cents per kilowatt-hour;~~

~~9. For the next 10,000,000 kilowatt-hours used or consumed in a month: 0.3050 cents per kilowatt-hour;~~

~~10. For all electricity used or consumed in excess of 20,000,000 kilowatt-hours used or consumed in a month: 0.3000 cents per kilowatt-hour.~~

(3) The tax is in addition to all taxes, fees and other revenue measures imposed by the City of Moline, the State of Illinois or any other political subdivision of the state.

(4) Notwithstanding any other provision of this chapter, the tax shall not be imposed if and to the extent that imposition or collection of the tax would violate the Constitution or statutes of the United States or the constitution of the state.

(5) The tax is in addition to all taxes, fees and other revenue measures imposed by the City, the state or any other political subdivision of the state.

SEC. 31-8102. BOOKS AND RECORDS.

Every tax collector and every taxpayer required to pay the tax imposed by Sec.31-8101 of this article shall keep accurate books and records of its business or activity, including contemporaneous books and records denoting the transactions that gave rise, or may have given rise, to any tax liability under this chapter. The books and records shall be subject to and available for inspection at all times during business hours of the day.

SEC. 31-8103. CERTAIN BUSINESS EXEMPT.

No tax is imposed by this article with respect to any transaction in interstate commerce or otherwise to the extent to which business may not, under the Constitution and statutes of the United States, be made subject to taxation by this state or any political subdivision thereof. No tax is imposed by this article upon the Moline Public School District #40.

SEC. 31-8104. TAX ADDITIONAL TO FRANCHISE FEE.

Such tax shall be in addition to the payment of money, or value of products or services furnished to this municipality 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.

SEC. 31-8105. COLLECTION OF THE TAX.

(a) Subject to the provision of Section 31-8102 of this article regarding the delivery of electricity to resellers, the tax

imposed under this article shall be collected from purchasers by the person maintaining a place of business in this state who delivers electricity to such purchasers. This tax shall constitute a debt of the purchaser to the person who delivers electricity to such purchaser and is recoverable at the same time and in the same manner as the original charge for delivery the electricity.

(b) Any tax required to be collected by this article, and any tax in fact collected, shall constitute a debt owed to the City by the person delivering the electricity, provided, that the person delivering electricity shall be allowed credit for such tax related to 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.

(c) 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 also be authorized to add to such gross charge an amount equal to three percent (3%) of the tax they collect to reimburse them for their expenses and filing returns, remitting the tax and supplying the data to the city upon request.

SEC. 31-8106. PROCEEDS OF TAX AND FINES.

(a) The tax shall be imposed pursuant to Section 31-8101, "Imposed," upon all persons engaged in the business of distributing, supplying, furnishing or selling gas for use or consumption within the corporate limits of the City of Moline and not for resale.

(b) All proceeds resulting from the imposition of the tax, including penalties, shall be paid into the City and shall be credited to and deposited as follows:

~~(1) Effective May 1, 2010, the tax shall be one percent (1%) of the gross receipts and all proceeds shall be credited to and deposited in the general fund;~~

~~(2) Effective January 1, 2011, the tax shall be three percent (3%) of the gross receipts; one percent (1%) of the proceeds shall be credited to and deposited in the general fund and two percent (2%) of the proceeds shall be credited to and deposited in the capital improvement fund to be used for right-of-way infrastructure projects;~~

~~(3)(1) Effective January 1, 2012, the tax shall be five percent (5%) of the gross receipts; one-twenty percent (120%) of the proceeds shall be credited to and deposited in the general fund and four-eighth percent (480%) of the proceeds shall be credited and deposited in the capital improvement fund to be used for right-of-way infrastructure projects;~~

~~(4) Proceeds from the two percent (2%) tax increases credited to and deposited in the capital improvement fund may not be used to satisfy debt service payments.~~

(Ord. No. 3001-2017; Sec. 31-8106 repealed; new Sec. 31-8106 enacted; 01/17/17)

SEC. 31-8107. TAX REMITTANCE AND RETURN.

On or before the last day of each month, each taxpayer shall make a return to the City of Moline for the preceding month stating:

- (1) name;
- (2) principal place of business;
- (3) gross receipts and kilowatt-hour usage during the month upon the basis of which the tax is imposed;
- (4) amount of the tax; and
- (5) such other reasonable and related information as the City of Moline may require.

The taxpayer making the return herein provided shall, at the time of making such return, pay to the City of Moline, the amount of tax collected or required to be collected under this section.

If the person delivering electricity fails to collect the tax from the purchaser or is excused from collecting the tax under Sec. 31-8103 of this article, then the purchaser shall file a return in a form prescribed by the City and pay the tax directly to the City on or before the last day of the month following the month during which the electricity is used or consumed.

SEC. 31-8108. RESELLERS.

(a) Electricity that is delivered to a person in the City shall be considered to be for use and consumption by that person unless the person receiving the electricity has an active resale number issued by the finance office and furnishes that number to the person who delivers the electricity, and certifies to that person that the sale is either entirely or partially nontaxable as a sale for resale.

(b) If a person who receives electricity in the City claims to be an authorized reseller of electricity, that person shall apply to the finance office for a resale number. The applicant shall state facts showing why it is not liable for the tax imposed by this article on any purchases of electricity and shall furnish such additional information as the finance office may reasonably require.

(c) Upon approval of the application the finance office shall assign a resale number to the applicant and shall certify the

number to the applicant.

(d) The finance office may cancel the resale number of any person if the person fails to pay any tax payable under this article for electricity used or consumed by the person, or if the number: 1) was obtained through misrepresentation, or 2) is no longer necessary because the person has discontinued making resales.

1. If a reseller has acquired electricity partly for use or consumption and partly for resale, the reseller shall pay the tax imposed by this article directly to the City pursuant to Sec. 31-8105 of this article on the amount of electricity that the reseller uses or consumes, and shall collect the tax pursuant to Sec. 31-8101 of this article and remit the tax pursuant to section Sec. 31-8107 of this article on the amount of electricity delivered by the reseller to a purchaser.

2. Any person who delivers electricity to a reseller having an active resale number and complying with all other conditions of this section shall be excused from collecting and remitting the tax on any portion of the electricity delivered to the reseller, provided that the person reports to the City the total amount of electricity delivered to the reseller, and such other information that the City may reasonably require.

SEC. 31-8109. CREDIT FOR OVERPAYMENT.

If it shall appear that an amount of tax has been paid which was not due under the provisions of this article, 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 article from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than three (3) years prior to the filing of a claim thereof, shall be so credited.

SEC. 31-8110. STATUTE OF LIMITATION.

No action to recover any amount of tax due under the provisions of this article shall be commenced more than three (3) years after the due date of such amount.

SEC. 31-8111. PENALTIES.

See the Taxpayer Bill of Rights Ordinance for all penalties and interest applicable to the taxes described in this Article.

~~Any taxpayer who fails to make a return, or who makes a fraudulent return, or willfully violates any other provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred (\$100.00) nor more than seven hundred fifty (\$750.00) and in addition, shall be liable in a civil action for the amount of tax due.~~

(Ord. No. 3010-2010; Art. VIII, "RESERVED," repealed; new Art. VIII, "UTILITY TAX," enacted; 02/09/10)

ARTICLE IX. TAXPAYERS' BILL OF RIGHTS

~~SEC. 31-9100. DEFINITIONS.~~

~~For the purpose of this article, when ever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this section:~~

~~(1) **Act**. Act means the "Local Government Taxpayers' Bill of Rights Act," found generally at 50 ILCS 45/1 et seq.~~

~~(2) **Corporate Authorities**. Corporate Authorities means the mayor and City Council of the City of Moline, Illinois.~~

~~(3) **Tax**. Tax means each tax imposed by the City of Moline that is collected or administered by the City, not an agency or department of the State. It does not include any taxes imposed upon real property under the Property Tax Code or fees collected by the City other than infrastructure maintenance fees.~~

~~(4) **Local Tax Administrator**. The City's accounts and finance officer is charged with the administration and collection of the locally imposed and administered taxes, including said officer's designee(s) when authorized to act in the local tax administrator's stead. The local tax administrator shall have the authority to implement the terms of this ordinance to give full effect to this ordinance. The exercise of such authority by the local tax administrator shall not be inconsistent with this ordinance and the Act.~~

~~(5) **City**. City means the City of Moline, Illinois.~~

~~(6) **Notice**. Notice means each audit notice, collection notice or other similar notice or communication in connection with each of the City's locally imposed and administered taxes.~~

~~(7) **Tax Ordinance**. Tax ordinance means each ordinance adopted by the City of Moline that imposes any locally imposed and administered tax.~~

~~(8) **Taxpayer**. 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 City of Moline.~~

~~SEC. 31-9101. NOTICES.~~

~~Unless otherwise provided, whenever notice is required to be given, the notice is to be in writing 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:~~

~~(1) First class or express mail, or overnight mail, addressed to the persons concerned at the person's last known address, or~~

~~(2) Personal service or delivery.~~

~~SEC. 31-9102. LATE PAYMENT.~~

~~Any notice, payment, remittance or other filing required to be made to the City of Moline pursuant to any tax ordinance shall be considered late unless it is:~~

~~(1) Physically received by the City on or before the due date, or~~

~~(2) Received in an envelope or other container displaying a valid, readable U.S. Postmark dated on or before the due date, properly addressed to the City's accounts and finance officer, with adequate postage prepaid.~~

~~SEC. 31-9103. 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.~~

~~SEC. 31-9104. CERTAIN CREDITS AND REFUNDS.~~

~~(a) The City of Moline 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 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 refunds shall be four (4) years after the end of the calendar year in which payment in error was made. The City of Moline 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 City.~~

~~(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 cancelled 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 City.~~

~~(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 six percent (6%) per annum, based on a year of three hundred sixty five (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.~~

~~SEC. 31-9105. AUDIT PROCEDURE.~~

~~Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this ordinance.~~

~~(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 for the auditor.~~

~~(b) Any audit shall be conducted during normal business hours and if the date and time selected by the local tax administrator is not agreeable to the taxpayer, another date and time may be requested in writing by the taxpayer within thirty (30) days after the originally designated audit and during normal business hours.~~

~~(c) The taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted not less than seven (7) days, nor 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. In the event taxpayer is unable to comply with the audit on the date in question, the taxpayer may request in writing another date within the thirty (30) days, which shall be approved in writing by the local tax administrator, that is convenient to the taxpayer and the local tax administrator.~~

~~(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 to 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 City.~~

~~(e) It is the duty and responsibility of every taxpayer to make available its books and records for inspection by the City. 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 there has been an overpayment of a locally imposed and administered tax as a result of the audit, written notice of the amount of overpayment shall be given to the taxpayer within thirty (30) days of the City's determination of the amount of overpayment.~~

~~(g) In the event a tax payment was submitted to the City incorrectly, the local tax administrator shall notify the local governmental entity imposing such tax.~~

~~SEC. 31-9106. 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 City 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 local 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.~~

~~SEC. 31-9107. HEARING.~~

~~(a) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under Sec.31-9106, above, the local tax administrator shall conduct a hearing regarding any appeal.~~

~~(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 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 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.

~~SEC. 31-9108. INTEREST AND PENALTIES.~~

(a) ~~Interest~~. The City hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax, to be eighteen percent (18%) per annum, based on a year of three hundred sixty five (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 imposed. If no return is filed within the time or manner provided by the controlling tax ordinance and prior to the City 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 apply if a failure to file penalty is imposed by the controlling ordinance.

~~SEC. 31-9109. 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.

~~SEC. 31-9110. INSTALLMENT CONTRACTS.~~

The City may enter into an installment contract 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) working 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 administrator, the installment contract shall be canceled without further notice to the taxpayer.

~~SEC. 31-9111. STATUTE OF LIMITATIONS.~~

(a) The City, 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.

(b) No determination of tax due and owing may be issued more than four (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.

(c) If any tax return is not filed or if during any four (4) year period for which a notice of tax determination or assessment may be issued by the City, the tax paid was less than seventy five percent (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.

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

~~SEC. 31-9112. 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 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.

~~SEC. 31-9113. 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 city clerk's office.

~~SEC. 31-9114. INTERNAL 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:~~

- ~~(1) timely remove the lien at the City's expense;~~
- ~~(2) correct the taxpayer's credit record; and~~
- ~~(3) correct any public disclosure of the improperly imposed lien.~~

~~**SEC. 31-9115. APPLICATION.**~~

~~This ordinance shall be liberally construed and administered to supplement all of the City's tax ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with this ordinance, this ordinance shall be controlling.~~

~~{Ord. No. 2000-12-15; new Articles VII and VIII reserved; new Article IX, "TAXPAYERS' BILL OF RIGHTS," enacted; 12/27/00}~~

ARTICLE IX. SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX

SEC. 31-~~401009~~100. DEFINITIONS.

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

- (1) **Amount paid** means the amount charged to the taxpayer's service address within the City regardless of where such amount is billed or paid.
- (2) **Department** means the Illinois Department of Revenue.
- (3) **Gross charge** means the amount paid to a telecommunications retailer for the act or privilege of originating or receiving telecommunications within the City and for all services and equipment provided in connection therewith by a telecommunications retailer, 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 City, charges for the channel mileage between each channel point within the City, and charges for that portion of the interstate inter-office channel provided within the City. However, "gross charge" shall not include:
 - a. Any amounts added to a purchaser's bill because of a charge made pursuant to: (i) the tax imposed by this article, (ii) the tax imposed by the Telecommunications Excise Tax Act, (iii) the tax imposed by Section 4251 of the Internal Revenue Code, (iv) 911 surcharges, or (v) charges added to purchasers' bills pursuant to the provisions of Section 9-221 or 9-222 of the Public Utilities Act, as amended, or any similar charges added to purchasers' bills by retailers who are not subject to rate regulation by the Illinois Commerce Commission for the purpose of recovering any of the tax liabilities or other amounts specified in those provisions of the Public Utilities Act.
 - b. Charges for a sent collect telecommunication received outside the City.
 - 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 as exempt under Section 9-222.1 of the Public Utilities Act to the extent of such exemption and during the period of time specified by the Department of Commerce and Community Affairs.
 - 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 when the tax imposed under this article has already been paid to a retailer and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit for the corporation rendering such service.
 - g. Bad debts, meaning 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.
 - i. Amounts paid by telecommunications retailers under the Telecommunications Infrastructure Maintenance Fee Act.
 - j. Charges for telecommunications and all services and equipment provided to the City.

(4) **Interstate telecommunications** means all telecommunications that either originate or terminate outside the State of Illinois.

(5) **Intrastate telecommunications** means all telecommunications that originate and terminate within the State of Illinois.

(6) **Person** means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, or a receiver, trustee, guardian, or other representative appointed by order of any court, the United States of America and State of Illinois governments, including State universities created by statute, or any city, town, county, or other political subdivision of the State of Illinois.

(7) **Purchase at retail** means the acquisition, consumption or use of telecommunications through a sale at retail.

(8) **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 or affiliate, an office, distribution facilities, transmission facilities, sales office, warehouse, or other place of business, or any agent or other representative operating within the State of Illinois 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 or affiliate is licensed to do business in the State of Illinois.

(9) **Sale at retail** means the transmitting, supplying or furnishing of telecommunications and all services and equipment provided in connection therewith for a consideration, to persons other than the United States of America and the State of Illinois governments, and State universities created by statute and other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries for their use or consumption and not for resale.

(10) **Service address** means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received by a taxpayer. In the event this may not be a defined location, as in the case of mobile phones, paging systems, and maritime systems, "service address" means the customer's place of primary use as defined in the Mobile Telecommunications Sourcing Conformity Act. For air-to-ground systems and the like, "service address" shall mean the location of the telecommunications equipment as defined by telephone number, authorization code, or location in the State of Illinois where bills are sent.

(11) **Taxpayer** means a person who individually or through his or her agents, employees, or permittees engages in the act or privilege of originating or receiving telecommunications in the City and who incurs a tax liability as authorized by this article.

(12) **Telecommunications**, in addition to the meaning ordinarily and popularly ascribed to it, includes, without limitation, messages or information transmitted through use of local, toll, and wide area telephone service, private line service, channel services, telegraph services, teletypewriter service, computer exchange services, cellular mobile telecommunications service, specialized mobile radio services, stationary two-way radio service, paging service, voice over IP, or any other form of mobile and portable one-way or two-way communications, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. As used in this article, "private line" means a dedicated non-traffic sensitive service for a single customer, that entitles the customer to exclusive or priority use of a communications channel or group of channels, from one or more specified locations to one or more other specified locations. The definition of "telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the taxable end-to-end communications. Carrier access charges, right of access charges, charges for use of inter-company facilities, and all telecommunications resold in the subsequent provision of, used as a component of, or integrated into, end-to-end telecommunications service shall be non-taxable as sales for resale. Prepaid telephone calling arrangements shall not be considered "telecommunications" subject to the tax imposed under this article. For purposes of this article, "prepaid telephone calling arrangements" means that term as defined in Section 2-27 of the Retailers' Occupations Tax Act.

(13) **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.

SEC. 31-~~404~~101. TAX IMPOSED.

(a) There is hereby imposed and levied a tax on the act or privilege of originating in the City or receiving in the City intrastate telecommunications by a person. However, such tax is not imposed on such act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States of America, be made the subject of taxation by the City.

(b) There is hereby imposed and levied a tax on the act or privilege of originating in the City or receiving in the City intrastate telecommunications by a person. To prevent actual multi-state taxation of the act or privilege that is subject to taxation under this article, any taxpayer, upon written proof satisfactory to the ~~finance director~~director of finance that the taxpayer has paid a tax in another state on such event, shall be allowed a credit against any tax enacted pursuant to or authorized by this article to the extent of the amount of such tax properly due and paid in such other state which was not previously allowed as a credit against any other state or local tax in the State of Illinois. However, such tax is not imposed on the act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States of America, be made the subject of taxation by the City.

(c) The tax imposed and levied in this Section shall be at the rate of six percent (6%) percent of the gross charge for telecommunications purchased at retail.

SEC. 31-~~401029~~102. COLLECTION.

(a) The tax imposed and levied by this article shall be collected from the taxpayer by a retailer maintaining a place of business in the State of Illinois and shall be remitted by such retailer to the Department. Any tax required to be collected pursuant to this article and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State of Illinois. Retailers shall collect the tax from the taxpayer by adding the tax to the gross charge for the act or privilege of originating or receiving telecommunications when sold for use, in the manner prescribed by the Department. The tax imposed and levied in this article shall constitute a debt of the taxpayer to the retailer until paid, and, if unpaid, is recoverable at law in the same manner as the original charge for such sale at retail. If the retailer fails to collect the tax from the taxpayer, then the taxpayer shall be required to pay the tax directly to the Department in the manner provided by the Department.

(b) Retailers filing tax returns pursuant to the Simplified Municipal Telecommunications Tax Act shall, at the time of filing such return, pay to the Department the amount of the tax collected, less a discount of one percent (1%) of the amount collected which is allowed to reimburse the retailer for the expenses incurred in keeping records, billing the customer, preparing and filing returns, remitting the tax and supplying data to the City or the Department upon request. No discount may be claimed by a retailer on returns not timely filed and for taxes not timely remitted.

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

SEC. 31-~~401039~~103. RESELLERS.

(a) If a person who originates or receives telecommunications claims to be a reseller of such telecommunications, such person shall apply to the Department for a resale number. Such applicant shall state facts which will show the Department why such applicant is not liable for taxes imposed and levied by this article on any of such purchases and shall furnish such additional information as the Department may reasonably require.

(b) Upon approval of the application, the Department shall assign a resale number to the applicant and shall certify such number to the applicant. The Department may cancel any number which is obtained through misrepresentation, or which is used to send or receive such telecommunication tax-free when such actions ~~in fact, in fact~~, are not for resale, or which no longer applied because of the person's having discontinued the making of resales.

(c) Except as provided hereinabove in this Section, the act or privilege of originating or receiving telecommunications in the City shall not be made tax-free on the ground of being a sale for resale unless the person has an active resale number from the Department, and furnishes that number to the retailer in connection with certifying to the retailer that any sale to such person is non-taxable because of being a sale for resale.

SEC. 31-~~401049~~104. RETURNS TO THE DEPARTMENT.

Retailers shall file returns with and remit taxes collected to the Department as set forth in applicable provisions of the Illinois Simplified Municipal Telecommunications Tax Act.

SEC. 31-~~401059~~105. WAIVER OF FRANCHISE FEES.

(a) Subject to subsection (b) of this Sec. 31-10105, the City hereby waives its right to receive all fees, charges and other compensation that might accrue to it after the effective date of the Illinois Simplified Municipal Telecommunications Tax Act, under any franchise agreement, license, or similar agreement, executed on or before January 1, 1998 with telecommunications retailers.

(b) This waiver shall be effective only during the time that either the infrastructure maintenance fee or the simplified tax imposed and levied by this article is subject to being lawfully imposed on the telecommunications retailer, collected by the Department, and paid over to the City.

SEC. 31-~~401069~~106. PENALTIES AND ENFORCEMENT.

(a) Any retailer who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this article shall be subject to fine in accordance with the general penalty provisions of the Moline City Code of Ordinances as set forth in Sec. 1-1107 of said Code.

(b) Nothing in this article shall be construed as limiting any additional or further remedies that the City may have for enforcement of this article.

SEC. 31-~~401079~~107. SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this article 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.

SEC. 31-~~404089~~108. CONFLICT.

This article supersedes all articles or parts of articles adopted prior hereto which are in conflict herewith, to the extent of such conflict.

(Ord. No. 2002-09-08; new Article X, "SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX," enacted; 09/28/02)

ARTICLE XI. MUNICIPAL GAS USE TAX

The tax imposed by this article shall be known as the "Municipal Gas Use Tax" and is imposed in addition to all other taxes imposed by the City of Moline, the State of Illinois, or any other Municipal Corporation or political subdivision thereof.

SEC. 31-~~44400~~10100. DEFINITIONS.

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

- (1) **Person** means any individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, municipal corporation or political subdivision of this state, or a receiver, trustee, conservator or other representative appointed by order of any court.
- (2) **Public utility** means a public utility as defined in Section 3-105 of the Public Utilities Act.
- (3) **Public Utilities Act** means the Public Utilities Act as amended, (220 ILCS 5/1-101 et seq.).
- (4) **Retail purchaser** means any person who purchases gas in a sale at retail.
- (5) **Sale at retail** means any sale of gas by a retailer to a person for use or consumption, and not for resale. For this purpose, the term "retailer" means any person engaged in the business of distributing, supplying, furnishing or selling gas.

SEC. 31-~~44404~~10101. TAX.

- (a) Except as otherwise provided by this article, a tax is imposed on the privilege of using or consuming gas in the City that is purchased in a sale at retail at the rate of five (5) cent(s) per therm.
- (b) The ultimate incidence of and liability for payment of the tax is on the retail purchaser, and nothing in this article shall be construed to impose a tax on the occupation of distributing, supplying, furnishing, selling or transporting gas.
- (c) The retail purchaser shall pay the tax, measured by therms of gas delivered to the retail purchaser's premises, to the public utility designated to collect the tax pursuant to Section 31-~~44402~~-10102 of this article on or before the payment due date of the public utility's bill first reflecting the tax, or directly to the City ~~director of finance~~ ~~treasurer~~ director of finance on or before the fifteenth day of the second month following the month in which the gas is delivered to the retail purchaser if no public utility has been designated to collect the tax pursuant to Section 31-~~44402~~-10102 or if the gas is delivered by a person other than a public utility so designated.
- (d) Nothing in this article shall be construed to impose a tax upon any person, business, or activity in which, under the constitutions of the United States or State of Illinois, may not be made the subject of taxation by the City.
- (e) Nothing in this article shall be construed to impose a tax upon any business certified by the Illinois Department of Commerce and Economic Opportunity under Chapter 35 ILCS § 120/1f. The exemption applies to business enterprises located within an area designated as an enterprise zone for as long as the exemption certification is in effect with the Department of Commerce and Economic Opportunity and if the certification term expires, the exemption will extend for a period not to exceed thirty (30) years.
- (f) A person who purchases gas for resale and therefore does not pay the tax imposed by this article with respect to the use or consumption of the gas, but who later uses or consumes part or all of the gas, shall pay the tax directly to the city ~~treasurer~~ director of finance on or before the fifteenth day of the second month following the month in which the gas is used or consumed.
- (g) The tax shall apply to gas for which the delivery to the retail purchaser is billed by a public utility on or after March 01, 2017.
- (h) To prevent multiple taxation, the use of gas in the City by a retail purchaser (see Article VII: Utility Tax) shall be exempt from the tax imposed by this article if the gross receipts from the sale at retail of such gas to the retail purchaser are properly subject to a tax imposed upon the seller of such gas pursuant to the City's municipal utility tax, as amended from time to time by citation to ordinance or code section authorized pursuant to Section 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-2).

SEC. 31-~~44402~~10102. COLLECTION OF TAX BY PUBLIC UTILITY.

The mayor, ~~city treasurer~~ director of finance, ~~city administrator~~ manager and ~~city finance director~~ director of finance are each authorized to enter into a contract for collection of the tax imposed by this article with any public utility providing gas delivery service in the City. The contract shall include and substantially conform with the following provisions:

- (a) the public utility will collect the tax from retail purchasers as an independent contractor;

(b) the public utility will remit collected taxes to the City ~~treasurer~~director of finance no more often than once each month;

(c) the public utility will be entitled to withhold from tax collections a service fee equal to three percent (3%) of the amounts collected and timely remitted to the City ~~Treasurer~~director of finance;

(d) the public utility shall not be responsible to the City for any tax not actually collected from a retail purchaser; and

(e) such additional terms as the parties may agree upon.

SEC. 31-~~41403~~10103. BOOKS AND RECORDS.

Every taxpayer shall keep accurate books and records, including original source documents and books of entry, denoting the activities or transactions that gave rise, or may have given rise to any tax liability or exemption under this article. All such books and records shall, at all times during business hours, be subject to and available for inspection by the City.

(Ord. No. 3024-2016; new Art. XI, "MUNICIPAL GAS USE TAX," enacted; 12/13/16)

ARTICLE XII. CANNABIS RETAILERS' OCCUPATION TAX

SEC. 31-~~42100~~11100. TAX IMPOSED.

A tax is hereby imposed upon all persons engaged in the business of selling cannabis at retail at the rate of three percent (3%) of the gross receipts from such sales made in the course of such business while this ordinance is in effect. This Municipal Cannabis Retailers' Occupation Tax shall not be applicable to the sales of cannabis purchased under the Compassionate Use of Medical Cannabis Program Act. The imposition of this tax is in accordance with and subject to the provisions of Section 8-11-23 of the Illinois Municipal Code (65 ILCS 5/8-11-23). Persons subject to any tax imposed under this ordinance may reimburse themselves for their tax liability hereunder by separately stating this tax as an additional charge, which charge may be stated in combination or in a single amount, with any state tax that such sellers are required to collect.

SEC. 31-~~42101~~11101. COLLECTION.

The tax 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 this ordinance; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner provided by law; and to determine all rights to credit memoranda arising on account of the erroneous payment of a tax or penalty under this ordinance.

(Ord. No. 3008-2020; new Art. XII, "CANNABIS RETAILERS' OCCUPATION TAX," enacted; 03/17/20)

ARTICLE XII. TAXPAYERS' BILL OF RIGHTS

SEC. 31-12100. DEFINITIONS.

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

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

(2) **Corporate Authorities.** Corporate Authorities means the mayor and City Council of the City of Moline, Illinois.

(3) **Tax.** Tax means each tax imposed by the City of Moline that is collected or administered by the City, not an agency or department of the State. It does not include any taxes imposed upon real property under the Property Tax Code or fees collected by the City other than infrastructure maintenance fees.

(4) **Local Tax Administrator.** The City's director of finance is charged with the administration and collection of the locally imposed and administered taxes, including said officer's designee(s) when authorized to act in the local tax administrator's stead. The local tax administrator shall have the authority to implement the terms of this ordinance to give full effect to this ordinance. The exercise of such authority by the local tax administrator shall not be inconsistent with this ordinance and the Act.

(5) **City.** City means the City of Moline, Illinois.

(6) **Notice.** Notice means each audit notice, collection notice or other similar notice or communication in connection with each of the City's locally imposed and administered taxes.

(7) **Tax Ordinance.** Tax ordinance means each ordinance adopted by the City of Moline that imposes any locally imposed and administered tax.

(8) **Taxpayer.** 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 City of Moline.

SEC. 31-12101. 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:

(1) First class or express mail, or overnight mail, addressed to the persons concerned at the person's last known address, or

(2) Personal service or delivery.

SEC. 31-12102. LATE PAYMENT.

Any notice, payment, remittance or other filing required to be made to the City of Moline pursuant to any tax ordinance shall be considered late unless it is:

(1) Physically received by the City on or before the due date, or

(2) Received in an envelope or other container displaying a valid, readable U.S. Postmark dated on or before the due date, properly addressed to the City's director of finance, with adequate postage prepaid.

SEC. 31-12103. 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.

SEC. 31-12104. CERTAIN CREDITS AND REFUNDS.

(a) The City of Moline 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 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 refunds shall be four (4) years after the end of the calendar year in which payment in error was made. The City of Moline 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 City.

(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 City.

(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 six percent (6%) per annum, based on a year of three hundred sixty-five (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.

SEC. 31-12105. AUDIT PROCEDURE.

Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this ordinance.

(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 for the auditor.

(b) Any audit shall be conducted during normal business hours and if the date and time selected by the local tax administrator is not agreeable to the taxpayer, another date and time may be requested in writing by the taxpayer within thirty (30) days after the originally designated audit and during normal business hours.

(c) The taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted not less than seven (7) days, nor 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. In the event taxpayer is unable to comply with the audit on the date in question, the taxpayer may request in writing another date within the thirty (30) days, which shall be approved in writing by the local tax administrator, that is convenient to the taxpayer and the local tax administrator.

(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 to 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 City.

(e) It is the duty and responsibility of every taxpayer to make available its books and records for inspection by the City. 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 there has been an overpayment of a locally imposed and administered tax as a result of the audit, written notice of the amount of overpayment shall be given to the taxpayer within thirty (30) days of the City's determination of the amount of overpayment.

(g) In the event a tax payment was submitted to the City incorrectly, the local tax administrator shall notify the local governmental entity imposing such tax.

SEC. 31-12106. 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 City 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 local 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.

SEC. 31-12107. HEARING.

(a) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under Sec.31-9106, above, the local tax administrator shall conduct a hearing regarding any appeal.

(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 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 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.

SEC. 31-12108. INTEREST AND PENALTIES.

(a) **Interest** . The City hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax, to be eighteen percent (18%) per annum, based on a year of three hundred sixty-five (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 imposed. If no return is filed within the time or manner provided by the controlling tax ordinance and prior to the City 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 apply if a failure to file penalty is imposed by the controlling ordinance.

SEC. 31-12109. 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.

SEC. 31-12110. INSTALLMENT CONTRACTS.

The City may enter into an installment contract 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) working 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 administrator, the installment contract shall be canceled without further notice to the taxpayer.

SEC. 31-12111. STATUTE OF LIMITATIONS.

(a) The City, 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.

(b) No determination of tax due and owing may be issued more than four (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.

(c) If any tax return is not filed or if during any four (4) year period for which a notice of tax determination or assessment may be issued by the City, the tax paid was less than seventy-five percent (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.

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

SEC. 31-12112. 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 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 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.

SEC. 31-12113. 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 city clerk's office.

SEC. 31-12114. INTERNAL 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:

- (1) timely remove the lien at the City's expense;
- (2) correct the taxpayer's credit record; and
- (3) correct any public disclosure of the improperly imposed lien.

SEC. 31-12115. APPLICATION.

This ordinance shall be liberally construed and administered to supplement all of the City's tax ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with this ordinance, this ordinance shall be controlling.

(Ord. No. 2000-12-15; new Articles VII and VIII reserved; new Article IX, "TAXPAYERS' BILL OF RIGHTS," enacted; 12/27/00)