

## CHAPTER 33

### OCCUPATION AND USE TAXES

#### 33.01 MUNICIPAL RETAILERS' OCCUPATION TAX

(a) A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property at retail in the city at the rate of one percent of the gross receipts from such sales made in the course of such business, in accordance with the provisions of Section 8-11-1 of the Illinois Municipal Code.

(b) Every such person engaged in such business in the city shall file on or before the last day of each calendar month, the report to the State Department of Revenue required by Section Three of "An Act in Relation to a Tax upon Persons Engaged in the Business of Selling Tangible Personal Property to Purchasers for Use or Consumption," approved June 28, 1933, as amended.

(c) At the time such report is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed on account of the receipts from sales of tangible personal property during the preceding month.

#### 33.02 MUNICIPAL SERVICE OCCUPATION TAX

(a) A tax is hereby imposed upon all persons engaged in this municipality in the business of making sales of service at the rate of one percent of the cost price of all tangible personal property transferred by such servicemen either in the form of tangible personal property or in the form of real estate as an incident to a sale of service, in accordance with the provisions of Section 8-11-5 of the Illinois Municipal Code.

(b) Every supplier or serviceman required to account for Municipal Service Occupation Tax for the benefit of the City shall file, on or before the last day of each calendar month, the report to the State Department of Revenue required by Section Nine of the "Service Occupation Tax Act," approved July 10, 1961, as amended.

(c) At the time such report is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed.

#### 33.03 MUNICIPAL LEASING OCCUPATION TAX

(a) A tax is hereby imposed upon all persons engaged in the business of renting or leasing tangible personal property to the users thereof at the rate of one-half of one percent of the gross receipts from such renting or leasing made in the course of such business while this ordinance is in effect, in accordance with the provisions of Section 8-11-6 of the Illinois Municipal Code.

(b) Every person engaged in such business in the city shall file with the State Department of Revenue the return in the manner as required by Section Five of the "Leasing Occupation Tax Act" as adopted by the 74th General Assembly.

(c) At the time such return is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed on account of the receipts from renting or leasing tangible personal property during the preceding month.

#### 33.04 UTILITY TAX

Before any ordinance is adopted enacting a tax pursuant to the provisions of Chapter 24, Sec. 8-11-2, Illinois Revised Statutes, commonly known as a utility tax, the City Council shall enact a resolution calling for a public policy question on enacting the tax to be submitted to the voters of the City at the next election pursuant to the provisions of Chapter 46, Article 28, Illinois Revised Statutes.

### **33.05 HOTEL TAX**

(a) There is hereby levied and imposed upon all persons engaged in the business of renting, leasing or letting rooms in a hotel a tax at the rate of 5 per cent of the gross rental receipts from such renting, leasing or letting; excluding from gross rental proceeds, the proceeds of such renting, leasing or letting to permanent residents of that hotel.

(b) For the purpose of this section, 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" means any building or buildings in which the public may, for a consideration, obtain living quarters, sleeping or housekeeping accommodations. The term includes motels, inns, tourist homes or courts, lodging houses, rooming houses, bed and breakfast inns, and apartment houses.

2. "Permanent resident" means any person who occupied or has the right to occupy any room or rooms for at least 30 consecutive days.

(c) The City Clerk is hereby authorized to provide forms, and to issue rules and regulations providing for the payment of the hotel tax. Such tax shall be paid on a monthly basis by persons liable therefor.

### **33.06 MUNICIPAL REPLACEMENT VEHICLE TAX**

A tax is hereby imposed upon each vehicle, as defined in Section 1-146 of The Illinois Vehicle Code, purchased in this city by or on behalf of an insurance company to replace a vehicle of an insured person in settlement of a total loss claim. The tax shall be in the amount of \$50.00 per vehicle purchased.

Every such insurance company that purchases a replacement vehicle as defined herein shall complete and file with the Illinois Department of Revenue a replacement vehicle certificate (Form RVT-7). At the time such report is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed.

### **33.07 MOTOR VEHICLE LEASING TAX**

(a) A tax is hereby imposed upon any person doing business in the City, who leases motor vehicles, for the privilege of leasing motor vehicles within the City on a daily or weekly basis at the rate of \$2.75 per rental period as specified in the rental agreement.

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

"Person" shall mean any natural person, trustee, receiver, administrator, executor, conservator, assignee, trust in perpetuity, trust, estate, firm, copartnership, joint venture, club, company, business trust, domestic or foreign corporation, association, syndicate, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit, or otherwise. Whenever the term "person" is used in any clause prescribing and imposing a penalty, the term as applied to associations shall mean the owners or part-owners thereof, and as applied to corporations, the officers thereof, doing business within the City.

(c) The tax herein levied shall be paid in addition to any and all other taxes. It shall be the duty of any person subject to the tax herein to pay over to the City Collector said tax on a quarterly basis. Forms for collection of the tax shall be furnished by the City.

(d) The City Clerk, or any person so certified as deputy or representative, may enter the premises of any person subject to the tax for inspection and examination of books and records for the proper administration of this section and enforcement of the collection of the tax imposed. It is unlawful

for any person to prevent, hinder or interfere with the City Finance Officer or the duly authorized deputy or representative in discharge of duties in the enforcement of this article.

It shall be the duty of every person subject to the tax in the City of Hickory Hills to keep accurate and complete books and records to which the City Clerk, deputy or representative authorized, may inspect and shall include a daily sheet showing:

1. The number of vehicles leased, the names of the lessor and lessee and the periods for which leased during the quarterly period.
2. The actual lease for the period in question.

Every person subject to the tax shall file tax returns showing required in (1) and (2) of this subsection during each three-month period ending March 31, June 30, September 30, and December 31 of each year, within ten (10) days after the end of the respective date, upon forms and according to rules and regulations made by the City Clerk. At the time of filing said tax returns, the operator shall pay to the City Collector all taxes due for the period to which the tax return applies. Each return shall be accompanied by payment to the City of all taxes due and owing for the quarter covered by the return.

(e) In the event of failure by any person subject to the tax, manager or operator to collect and pay the tax required hereunder within ten (10) days after the same shall be due, interest shall accumulate and be due upon said tax at the rate of one (1%) percent per month commencing as of the first day of the month following the month for which the tax was to have collected. In addition, a penalty of ten percent (10%) of the tax and interest due shall be assessed and collected against any person subject to the tax or operator.

(f) Whenever any person shall fail to pay any tax as herein provided, the City Attorney shall, upon the request of the City Clerk, bring or cause to be brought an action to enforce the payment of said tax in behalf of the City in any court of competent jurisdiction.

If the Mayor, after hearing held, shall find that any person has willfully avoided payment of the tax imposed by this section, may suspend or revoke all City licenses held by such tax evader. The operator 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 him at his last known place of business. Pending notice, hearing and finding, and license of which such person may be possessed shall be temporarily suspended by the Mayor. Any suspension or revocation of any license shall not release or discharge the person subject to the tax, manager or operator from his civil liability for the payment of the tax nor from prosecution for such offense.

**33.08 MUNICIPAL TELECOMMUNICATIONS TAX**

(a) There is hereby levied and imposed upon all persons engaged in the act or privilege of originating within the City or receiving in the City intrastate telecommunications by a person a tax at the rate of 5% of the gross charge for such telecommunications purchased at retail from a retailer by such person. However, such tax is not imposed on such act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by municipalities in this State.

(b) There is hereby levied and imposed upon all persons engaged in the act or privilege of originating within the City or receiving in the City interstate telecommunications by a person a tax at the rate of 5% of the gross charge for such telecommunications purchased at retail from a retailer by such person. To prevent actual multi-state taxation of the act or privilege that is subject to taxation, any taxpayer, upon proof that the taxpayer has paid a tax in another state on such event, shall be allowed a credit to the extent of the amount of such tax properly due and paid in such other state which was not previously allowed as a credit against any other state or local tax in this State. However, such tax is not imposed on such act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by municipalities in this State.

(c) For the purposes of this section, the words and phrases defined in Chapter 24, ¶8-11-17, Illinois Revised Statutes, as amended, shall apply.

(d) The City Collector is hereby authorized to provide forms, and to issue rules and regulations providing for the payment of the tax authorized by this section. Such tax shall be paid on a monthly basis by persons liable therefor.

(e) On or before the last day of the following month, every retailer shall file a return with the City Collector and pay any tax due. Any tax required to be collected shall be collected by the retailer from the taxpayer and shall constitute a debt of the taxpayer to the retailer. If the retailer fails to collect the tax from the taxpayer, then the taxpayer shall be required to pay the tax directly to the City Collector. Failure to pay any portion of the tax on time shall result in a penalty equal to 10% of the amount of the unpaid tax. Failure to pay any portion of the tax for more than 30 days shall result in an interest charge equal to 1% per month of the amount of the unpaid tax.

(f) Any retailer may apply for an adjustment of any tax paid which should not have been paid as a result of any mistake or error. Upon approval of the City Collector, an adjustment shall be made by giving a credit on the next return due for the amount of the adjustment granted. No adjustment for any reason shall be given 12 months after the return is filed.

(g) All taxes paid shall be considered voluntarily paid unless the return and the check paying the taxes clearly have marked thereon that payment is being made under protest and the reason for the protest.

(h) No tax shall be charged upon a reseller provided that such person shall have had previously applied for and been granted a resale number and the telecommunication is a resale.

### **33.09 MUNICIPAL GAS TAX**

(a) A tax is imposed on all persons engaged in the business of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of the City, and not for resale, at the rate of 5% of the gross receipts therefrom.

(b) For the purposes of this section, the words and phrases defined in Chapter 24, ¶8-11-2, Illinois Revised Statutes, as amended, shall apply.

(c) No tax is imposed by this section with respect to any transaction in interstate commerce or otherwise to the extent to which such 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.

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

(e) On or before the last day of each month, commencing April 1992, each taxpayer shall make a return to the City Collector for the previous month, stating:

- (1) His name;
- (2) His principal place of business;
- (3) His gross receipts during those months upon the basis of which the tax is imposed.
- (4) Amount of tax;
- (5) Such other reasonable and related information as the corporate authorities may

require.

The City Collector is hereby authorized to provide forms, and to issue rules and regulations providing for the payment of the tax authorized by this section.

(f) The taxpayer making the return provided for in subsection (e) shall, at the time of making such return, pay to the City Collector, the amount of tax herein imposed; provided that in connection with any return the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings and the taxable gross receipts. Willful failure to file a timely return shall result in a penalty equal to 10% of the amount of the unpaid tax. Failure to timely pay any portion of the tax shall result in an interest charge equal to 1% per month of the amount of the unpaid tax.

(g) If it shall appear that an amount of tax has been paid which was not due under the provisions of this section, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this section from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than 3 years prior to the filing of a claim therefore shall be so credited.

(h) No action to recover any amount of tax due under the provisions of this section shall be commenced more than 3 years after the due date of such amount. All taxes paid shall be considered voluntarily paid unless the return and the check paying the taxes clearly have marked thereon that payment is being made under protest and the reason for the protest.

### **33.10 MUNICIPAL ELECTRICITY TAX**

(a) A tax is imposed on all persons engaged in the business of distributing, supplying, furnishing, or selling electricity for use or consumption within the corporate limits of the City, and not for resale, at the rate of 5% of the gross receipts therefrom.

(b) For the purposes of this section, the words and phrases defined in Chapter 24, ¶8-11-2, Illinois Revised Statutes, as amended, shall apply.

(c) No tax is imposed by this section with respect to any transaction in interstate commerce or otherwise to the extent to which such 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.

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

(e) On or before the last day of each month, commencing April 1992, each taxpayer shall make a return to the City Collector for the previous month, stating:

- (1) His name;
- (2) His principal place of business;
- (3) His gross receipts during those months upon the basis of which the tax is imposed.
- (4) Amount of tax;
- (5) Such other reasonable and related information as the corporate authorities may require.

The City Collector is hereby authorized to provide forms, and to issue rules and regulations providing for the payment of the tax authorized by this section.

(f) The taxpayer making the return provided for in subsection (e) shall, at the time of making such return, pay to the City Collector, the amount of tax herein imposed; provided that in connection with any return the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings and the taxable gross receipts. Willful failure to file a timely return shall result in a penalty equal to 10% of the amount of the unpaid tax. Failure to timely pay any portion of the tax shall result in an interest charge equal to 1% per month of the amount of the unpaid tax.

(g) If it shall appear that an amount of tax has been paid which was not due under the provisions of this section, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this section from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than 3 years prior to the filing of a claim therefore shall be so credited.

(h) No action to recover any amount of tax due under the provisions of this section shall be commenced more than 3 years after the due date of such amount. All taxes paid shall be considered voluntarily paid unless the return and the check paying the taxes clearly have marked thereon that payment is being made under protest and the reason for the protest.

(i) The tax imposed under this Section shall not apply with respect to gross receipts pertaining to bills for the distribution, supply, furnishing or sale of electricity where the use or consumption of the electricity is subject to the tax imposed under Section 33.12.

(j) If a taxpayer under this Section is unable to use a credit authorized by this Section solely because the tax imposed by this Section has been replaced by the tax imposed under Section 33.12 then the taxpayer may apply such credit against any tax due under Section 33.12.

### **33.11 MUNICIPAL TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE**

(a) **Definitions.** As used in this Section, the following terms shall have the following meanings:

1. "Bad Debt" means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable federal income tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made;

2. "Gross Charges" 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 rendered in connection therewith valued in money whether paid in money or otherwise, including cash, credits, services, and property of every kind or nature, and shall be determined, without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. Gross charges for private line service shall include charges imposed at each channel point within the 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 charges shall not include:

A. any amounts added to a purchaser's bill because of a charge made under: (i) the fee imposed by this Section, (ii) additional charges added to a purchaser's bill under Section 9-221 or 9-222 of the Public Utilities Act, (iii) amounts collected under Section 811-17 of the Illinois Municipal Code, (iv) the tax imposed by the Telecommunications Excise Tax Act, (v) 911 surcharges, or (vi) the tax imposed by Section 4251 of the Internal Revenue Code;

B. charges for a sent collect telecommunication received outside the 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 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 City;

F. charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit other than a regulatory required profit for the corporation rendering such services;

G. bad debts;

H. charges paid by inserting coins in coin-operated telecommunications devices; or

I. charges for telecommunications and all services and equipment provided to the City.

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

4. "Retailer maintaining a place of business in this State", or any like term means and includes any retailer having or maintaining within the State of Illinois, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse, or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.

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

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

7. "Telecommunications" includes, but is not limited to, messages or information transmitted through use of local, toll, and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange services, private line services, specialized mobile radio services, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. Unless the context clearly requires otherwise, telecommunications shall also include wireless telecommunications as hereinafter defined. Telecommunications shall not include value added services in which computer processing applications are used to act on the form content, code, and protocol of the information for purposes other than transmission. Telecommunications shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by him or her to the ultimate retail consumer who originates or terminates the end-to-end communications. Retailer access charges, right of access charges, charges for use of intercompany facilities, and all telecommunications resold in the subsequent provision and used as a component of or integrated into, end-to-end telecommunications service shall not be included in gross charges as sales for resale. Telecommunications shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following) as now or hereafter amended or cable or other programming services subject to an open video system fee payable to the City through an open video system as defined in the Rules of the Federal Communications Commission (47 C.D.F. 76.1550 and following) as now or hereafter amended.

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

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

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

**(b) Registration of telecommunications providers.**

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



2. Every telecommunications provider who has registered with the City has an affirmative duty to submit an amended registration form or current return as required by to the City within 30 days from the date of the occurrence of any changes in the information provided by the telecommunications provider in the registration form or most recent return on file with the City.

**(c) Municipal telecommunications infrastructure maintenance fee.**

1. A City telecommunications infrastructure maintenance fee is hereby imposed upon all telecommunications retailers in the amount of 1% of all gross charges charged by the telecommunications retailer to service addresses within the City for telecommunications originating or received in the City.

2. Upon the effective date of the infrastructure maintenance fee, such fee shall be the only fee or compensation for the use of all public rights-of-way within the City by telecommunications retailers. Imposition of the infrastructure maintenance fee does not however, serve as a limitation on the levying of any taxes or imposition of any fees otherwise authorized by law.

**(d) Collection, enforcement, and administration of telecommunications infrastructure maintenance fees.**

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

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

3. Remittance of the municipal infrastructure fee to the City shall be accompanied by a return, in a form to be prescribed by the City Clerk, which shall contain such information as the City Clerk may reasonably require.

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

5. If it shall appear that an amount of infrastructure maintenance fee has been paid that was not due, whether as a result of a mistake of fact or an error of law, then such amount shall be credited against any infrastructure maintenance fee due, or to become due from the telecommunications retailer who made the erroneous payment; provided, however, the City Clerk may request, and telecommunications retailer shall provide, written substantiation for such credit. No claim for such credit may be made more than three years after the date of the erroneous payment unless, (1) the credit is used only to offset a claim of underpayment made by the City within the applicable statutory period of limitations, and (2) the credit derives from an overpayment made by the same telecommunications retailer during the applicable statutory period of limitations.

6. Amounts paid by telecommunications retailers shall not be included in the tax base under any of the following:

- A. "gross charges" for purposes of the Telecommunications Excise Tax Act;
- B. "gross receipts" for purposes of the municipal utility tax as prescribed in Section 8-11-2 of the Illinois Municipal Code;
- C. "gross charges" for purposes of the municipal telecommunications tax as prescribed in Section 8-11-17 of the Illinois Municipal Code;
- D. "gross revenue" for purposes of the tax on annual gross revenue of public utilities prescribed in Section 2-202 of the Public Utilities Act.

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

8. The City Clerk may promulgate regulations concerning the administration and enforcement of this Section consistent with its provisions, and shall notify all telecommunications retailers of such regulations.

(e) **Compliance With Other Laws.** Nothing in this Section shall excuse any person or entity from obligations imposed under any law, including but not limited to:

- 1. generally applicable taxes; and
- 2. standards for construction on, over, under, or within, use of or repair of the public rights-of-way, including standards relating to free standing towers and other structures upon the public rights-of-way; and
- 3. any liability imposed for the failure to comply with such generally applicable taxes or standards governing construction on, over, under, or within, use of or repair of the public rights-of-way; and
- 4. compliance with any ordinance or provision of the Hickory Hills Municipal Code concerning uses or structures not located on, over, or within the right-of-way.

(f) **Existing Franchises and Licenses.** Any franchise, license, or similar agreements between telecommunications retailers and the City entered into before the effective date of this Ordinance regarding the use of public rights-of-way shall remain valid according to and for their stated terms except for any fees, charges or other compensation to the extent waived.

### 33.12 ELECTRIC UTILITY TAX

(a) **Definitions.** As used in this Section, the following terms shall have the following meanings:

1. "City" means the City of Hickory Hills.
2. "Person" means any natural, individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, limited liability company, municipal corporation, the State or any of its political subdivisions, any State university created by statute, or a receiver, trustee, conservator or other representative appointed by order of any court;
3. "Person maintaining a place of business in this State" means any person having or maintaining within this State, directly or by a subsidiary or other affiliate, an office, generation, facility, distribution facility, transmission facility, sales office or other place of business, or any employee, agent, or other representative operating within the State under the authority of the person or its subsidiary or other affiliate, irrespective of whether such place of business or agent or other representative is located in the State permanently or temporarily, or whether such person, subsidiary or other affiliate is licensed or qualified to do business in this State.
4. "Purchase at retail" means any acquisition of electricity by a purchaser for purposes of use or consumption, and not for resale, but shall not include the use of electricity by a public utility, as defined in 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, electricity acquired in a purchase at retail.
6. "Tax collector" means the person delivering electricity to the purchaser.

(b) **Tax Imposed.**

1. Pursuant to Section 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-2), 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 at the following rates, calculated on a monthly basis for each purchaser:

For the first 2,000 kilowatt-hours used or consumed in a month; 0.561 cents per kilowatt-hour;

For the next 48,000 kilowatt-hours used or consumed in a month; 0.368 cents per kilowatt-hour;

For the next 50,000 kilowatt-hours used or consumed in a month; 0.331 cents per kilowatt-hour;

For the next 400,000 kilowatt-hours used or consumed in a month; 0.322 cents per kilowatt-hour;

For the next 500,000 kilowatt-hours used or consumed in a month; 0.313 cents per kilowatt-hour;

For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.294 cents per kilowatt-hour;

For the next 2,000,000 kilowatt-hours used or consumed in a month;  
0.290 cents per kilowatt-hour;

For the next 5,000,000 kilowatt-hours used or consumed in a month  
0.285 cents per kilowatt-hour;

For the next 10,000,000 kilowatt-hours used or consumed in a month;  
0.280 cents per kilowatt-hour; and

For all electricity used or consumed in excess of 20,000,000 kilowatt-  
hours in a month; 0.276 cents per kilowatt-hour.

2. The tax is addition to all taxes, fees and other revenue measures imposed by the City, the State of Illinois or any other political subdivision of the State.

3. Notwithstanding any other provision of this Section, 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 of Illinois.

4. The tax shall be imposed with respect to the use or consumption of electricity by residential customers beginning with the first bill issued on or after September 1, 1998 and with respect to the use or consumption of electricity by nonresidential customers beginning with the first bill issued to such customers for delivery services in accordance with Section 16-104 of the Public Utilities Act (220 ELCS 5/16-104), or the first bill issued to such nonresidential customers on or after January 1, 2001, whichever issuance occurs sooner.

**(c) Collection of Tax.**

1. Subject to the provisions of Paragraph (e) regarding the delivery of electricity to resellers, the tax imposed under this Section 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 the electricity to the purchaser and is recoverable at the same time and in the same manner as the original charge for delivering the electricity.

2. Any tax required to be collected by this Section, 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.

3. 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 3% of the tax they collect to reimburse them for their expenses incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the City upon request. For purposes of this Section, any partial payment of a billed amount not specifically identified by the purchaser shall be deemed to be for the delivery of electricity.

(d) **Tax Remittance and Return.**

1. Every tax collector shall on a monthly basis file a return in a form prescribed by the City Clerk. The return and accompanying remittance shall be due on or before the last day of the following month.

2. If the person delivering electricity fails to collect the tax from the purchaser or is excused from collecting the tax, then the purchaser shall file a return in a form prescribed by the City Clerk and pay the tax directly to the City on or before the last day of the following month.

(e) **Resales.**

1. 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 City Clerk and furnishes that number to the person who delivers the electricity, and certifies that the sale is either entirely or partially nontaxable as a sale for resale.

2. If a person who receives electricity in the City claims to be an authorized reseller of electricity, that person shall apply to the City Clerk for a resale number. The applicant shall state facts showing why it is not liable for the tax imposed by this Section and shall furnish such additional information as the City Clerk may reasonably require.

3. Upon approval of the application the City Clerk shall assign a resale number to the applicant.

4. The City Clerk may cancel the resale number of any person if the person fails to pay any tax payable under this Section 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.

5. If a reseller has acquired electricity partly for use or consumption and partly for resale, the reseller shall pay the tax imposed by this Section on the amount of electricity that the reseller uses or consumes, and shall collect the tax pursuant to Paragraph (c) and remit the tax on the amount of electricity delivered by the reseller to a purchaser.

Any person who delivers electricity to a reseller having an active resale number and complying with all other conditions of the 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 Clerk the total amount of electricity delivered to the reseller, and such other information that the City Clerk may reasonably require.

(f) **Books and records.** Every person required to pay the tax imposed by this Section 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 Section. The books and records shall be subject to and available for inspection at all times during business hours of the day.

(g) **Credits and Refunds.** Notwithstanding any other provision, in order to permit sound fiscal planning and budgeting by the City, no person shall be entitled to a refund of, or credit for, a tax imposed under this Section unless the persons files a claim for refund or credit within one year after the date on which the tax was paid or remitted.

**33.13 AUTOMOBILE RENTING OCCUPATION TAX**

A tax is hereby imposed upon all persons engaged in the business of renting automobiles in the City of Hickory Hills at the rate of 1% of the gross receipts from such business, in accordance with the provisions of 65 ILCS 5/8-11-7.

**33.14 AUTOMOBILE RENTING USE TAX**

A tax is hereby imposed upon the privilege in using in the City of Hickory Hills an automobile which is rented from a rentor outside Illinois, and which is titled or registered with an agency of the state's government, at the rate of 1% of the rental price of such automobile, in accordance with the provisions of 65 ILCS 5/8-11-8.

**33.15 LOCALLY IMPOSED AND ADMINISTERED TAX RIGHTS AND RESPONSIBILITY PROCEDURES**

(a) **Title.** This Section shall be known as, and may be cited as, the "Locally Imposed and Administered Tax Rights and Responsibility Procedures."

(b) **Scope.** The provisions of this Section shall apply to the City's procedures in connection with all of the City's locally imposed and administered taxes.

(c) **Definitions.** Certain words or terms herein shall have the meaning ascribed to them as follows:

"Act" means the "Local Government Taxpayers' Bill of Rights Act."

"Locally imposed and administered tax" or "tax" means each tax imposed by the City that is collected or administered by the City but 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.

"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.

"Tax Ordinance" means any ordinance adopted by the City that imposes any locally imposed and administered tax.

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

(d) **Notices.** Unless otherwise provided, whenever notice is required to be given, the notice is to be in writing mailed not less than 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:

- (i) First class or express mail, or overnight mail, addressed to the persons concerned at the persons' last known address, or
- (ii) Personal service or delivery.

(e) **Late payment.** Any notice, payment, remittance or other filing required to be made to the City pursuant to any tax ordinance shall be considered late unless it is (a) physically received by the City on or before the due date, or (b) 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, with adequate postage prepaid.

(f) **Payment.** Any payment or remittance received for a tax period shall be applied in the following order: first, to the tax due for the applicable period; second, to the interest due for the applicable period; and third, to the penalty for the applicable period.

(g) **Credits and Refunds.**

1. The City 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.

2. The statute of limitations on a claim for credit or refund shall be 4 years after the end of the calendar year in which payment in error was made. The City 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.

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

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

(1) the name of the locally imposed and administered tax subject to the claim;

(2) the tax period for the locally imposed and administered tax subject to the claim;

(3) the date of the tax payment subject to the claim and the cancelled check or receipt for the payment;

(4) the taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and

(5) 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.

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

(1) grant the claim; or

(2) 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.

C. 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 6% per annum, based on a year of 365 days and the number of days elapsed, from the date of the overpayment to the date of mailing of a refund check or the grant of a credit.

(h) **Audit Procedure.** Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this Section.

1. Each notice of audit shall contain the following information:
  - A. the tax;
  - B. the time period of the audit; and
  - C. a brief description of the books and records to be made available for the auditor.

2. 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 by the taxpayer within 30 days after the originally designated audit and during normal business hours.

3. The taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted not less than 7 days nor more than 30 days from the date the notice is given, unless the taxpayer and the local tax administrator agreed 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 another date within the 30 days, approved in writing, that is convenient to the taxpayer and the local tax administrator.

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

5. 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 the City 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.

6. 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 30 days of the City's determination of the amount of overpayment.

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

(i) **Appeal.**

1. 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:

- A. the reason for the assessment;
- B. the amount of the tax liability proposed;
- C. the procedure for appealing the assessment; and
- D. the obligations of the City during the audit, appeal, refund and collection process.



2. 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 45 days of receipt of the written notice of the tax determination and assessment.

3. 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 14 days of receipt of the written protest and petition for hearing, unless the taxpayer requests a later date convenient to all parties.

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

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

(j) **Hearing.**

1. Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under section nine, above, the local tax administrator shall conduct a hearing regarding any appeal.

2. 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 14 days except by agreement of all parties.

3. 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.

4. 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.

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

1. The City hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax, to be 1% per month or part thereof that a payment is late.

2. If a tax return is not filed within the time and manner provided by the controlling tax ordinance, a late filing penalty, of 5% of the amount of tax required to be shown as due on a return shall be imposed; and a late payment penalty of 5% of the tax due shall be imposed. If no return is filed within the time or manner provided by the controlling tax ordinance and prior to the City issuing a notice of tax delinquency or notice of tax liability, then a failure to file penalty shall be assessed equal to 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.

(l) **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.

(m) **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 30 days delinquent, the taxpayer shall have 14 days to cure any delinquency. If the taxpayer fails to cure the delinquency within the 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.

(n) **Statute of Limitations.** 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 45 days after receiving notice of the reviewed tax returns to make any request for refund or provide any tax still due and owing.

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

2. If any tax return is not filed or if during any 4-year period for which a notice of tax determination or assessment may be issued by the City, the tax paid was less than 75% of the tax due, the statute of limitations shall be 6 years 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.

3. No statute of limitations shall not apply if a fraudulent tax return was filed by the taxpayer.

(o) **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 1% per month or part thereof, for all periods prior to the filing of the application but not more than 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 90 days after the filing of the voluntary disclosure application or the date agreed to by the local tax administrator. However, any additional amounts owed as a result of an underpayment of tax and interest previously paid under this Section must be paid within 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.

(p) **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.

(q) **Local Tax Administrator.** 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:

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

(r) **Application.** This Section 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 Section, this Section shall be controlling.

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

(a) **Definitions.** As used in this Section, the following terms shall have the following meanings:

*Cable service* means that term as defined in 47 U.S.C. § 522(6).

*Commission* means the Illinois Commerce Commission.

*Gross revenues* means that term as defined in Section 21-801(c) of the Act.

*Holder* means a person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to Section 5/21-401 of the Act.

*PEG* means public, education and governmental.

*PEG access support fee* means the amount paid under this Section and Section 5/21-801(d) of the Act by the holder to the City for the service areas within its territorial jurisdiction.

*Service* means the provision of "cable service" or "video service" to subscribers and the interaction of subscribers with the person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to Section 5/21-401 of the Act.

*Service provider fee* means the amount paid under this Section and Section 5/21-801 of the Act by the holder to a City for the service areas within its territorial jurisdiction.

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

(b) **Cable/Video Service Provider Fee Imposed.** A fee of 5% of the holder's gross revenues is hereby imposed on any holder providing cable service or video service in the City.

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

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

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

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

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

(h) **PEG Access Support Fee Imposed.** A PEG access support fee of one percent (1%) of the holder's gross revenues or, if greater, the percentage of gross revenues that incumbent cable operators pay to the City or its designee for PEG access support in the City is hereby imposed on any holder providing cable service or video service in the City in addition to the fee imposed pursuant to (b) hereof.

(i) **Payment.** The holder shall pay the PEG access support fee to the City or to the entity designated by the City to manage PEG access. The holder's liability for the PEG access support fee shall commence on the date set forth in (d) hereof.

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

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

(l) **Applicable Principles.** All determinations and calculations under this Section shall be made pursuant to generally accepted accounting principles.

(m) **No Impact on Other Taxes Due from Holder.** Nothing contained in this Section shall be construed to exempt a holder from any tax that is or may later be imposed by the City, including any tax that is or may later be required to be paid by or through the holder with respect to cable service or video service. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the City's simplified municipal telecommunications tax or any other tax as it applies to any telephone service provided by the holder. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the local unit of government's 911 or E911 fees, taxes or charges.

(n) **Audits of Cable/Video Service Provider.** The City will notify the holder of the requirements it imposes on other cable service or video service providers to submit to an audit of its books and records. The holder shall comply with the same requirements the City imposes on other cable service or video service providers in its jurisdiction to audit the holder's books and records and to recompute any amounts determined to be payable under the requirements of the City. If all local franchises between the City and cable operator terminate, the audit requirements shall be those adopted by the City in Section 33.15 of the Hickory Hills Municipal Code. No acceptance of amounts remitted should be construed as an accord that the amounts are correct.

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

(p) **Late fees/Payments.** All fees due and payments which are past due shall be governed by the provisions of Section 33.15 of the Hickory Hills Municipal Code.