

CHAPTER 10

TAX

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TAXES

DIVISION 1

ANNUAL APPROPRIATIONS

10-1-1 ANNUAL APPROPRIATIONS BILL

The City Council shall within or before the first quarter of each fiscal year, ascertain the total amount of appropriations for all corporate purposes legally made (by an Ordinance termed the Annual Appropriation Ordinance), and the said City Council shall, by Ordinance, not less than ten days after the publication of the Annual Appropriation Ordinance, levy and assess such amount, so ascertained upon the real and personal property within the said City, subject to taxation, as the same is assessed for the State and county for the current year, taking into consideration, however, the probable revenue of said City from sources other than by general taxation; said Ordinance may be titled as follows: "An Ordinance providing for the levy, assessment, and collection of taxes for the fiscal year AD. 1977." (Stating in figures the current year).

10-1-2 COPY TO BE FILED WITH COUNTY CLERK

A certified copy of said Ordinance, imposing City tax aforesaid, shall annually be filed on or before the second, Tuesday in September, with the County Clerk of Fayette County, State of Illinois, whose duty it shall be to ascertain the rate percent which, upon the total valuation of all property subject to taxation within said City, as the same is assessed and equalized for State and county purposes, will produce a net amount not less than the amount so directed to be levied and assessed, and it shall be the duty of said County Clerk to extend such tax in a separate column upon the books of the collector or collectors of State and county taxes within said City.

10-1-3 TAX COLLECTION AND ENFORCEMENT

The tax so assessed shall be collected and enforced in the same manner and by the same Officers as State and county taxes, and shall be paid over by the offices collecting the same to the City Treasurer.

10-1-4 PAYMENT TO CITY TREASURER

It shall be the duty of the officers collecting such tax to settle with and pay over to the said City Treasurer, as often as once in two weeks from the time he shall commence the collection thereof, all such taxes as he shall have collected, till the whole tax collection shall be paid over.

10-1-5

SPECIAL ASSESSMENTS

Whenever said City is required to levy a tax for payment of any particular debt, appropriation or liability of the same, the tax for such purpose shall be included in the total amount assessed by the City Council and certified to the County Clerk as aforesaid: but the City Council shall determine, in ordinance, what portion of such total amount shall be applicable to the payment of such particular debt, appropriation or liability; and the said City Treasurer shall set apart such appropriation of the taxes collected and paid to him for payment of such particular debt, appropriation or liability, and shall not disburse the same for any other purpose until such debt, appropriation or liability shall have been discharge.

10-1-6

UNIFORM LEVY AND ASSESSMENT

All taxes levied or assessed by said City except special assessments for local improvement, shall be uniform upon all taxable property and person within the limits of said City and no property as may be exempt from taxation under the constitution and general laws of the State.

10-1-7

ESTIMATE OF CORPORATE EXPENSES

The City Clerk shall, on or before the fifteenth of May, submit to the City Council a report of his estimate, as nearly as may be, of money necessary to defray the expenses of the corporation during the current fiscal year and he shall, in making his report, particularly specify the probable liabilities of said City during the current year.

DIVISION 2

MUNICIPAL RETAILERS OCCUPATION TAX

10-2-1

TAX IMPOSED

A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property at retail in this City at the rate of one percent of the gross receipts from such sales made in the course of such business while this ordinance is in effect, in accordance with the provisions of Chapter 24, Section 8-11-1 of the Illinois Municipal Code.

10-2-2

RETURN TO BE FILED

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 3 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.

10-2-3

PAYMENT

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.

DIVISION 3

AUTOMOBILE RENTING USE TAX

10-3-1 TAX PROVISION

A tax is hereby imposed upon the privilege of using in this city an automobile which is rented from a renter outside Illinois and which is titled or registered with an agency of this state's government in this city at the rate of one percent of the rental price of such automobile while this ordinance is in effect, in accordance with the provisions of Section 8-11-8 of the Illinois Municipal Code.

10-3-2 REPORT TO BE FILED

Every such person engaged in such business in the city shall file on or before the last day of each calendar month, the report to the State Department of Revenue required by Sections Two and Three of "An Act in Relation to a Tax upon Person Engaged in the Business of Selling Tangible Personal Property to Purchasers for Use or Consumption" approved June 29, 1933, as amended.

10-3-3 COLLECTION

The tax provided for in this ordinance shall be collected from the persons whose Illinois address for titling or registration purpose is given as being in this city.

10-3-4 PAYMENT

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 renting of automobiles during the preceding month.

DIVISION 4

USE TAX ON PROPERTY PURCHASED OUT OF STATE

10-4-1

TAX PROVISION

A tax is hereby imposed in accordance with provisions of Section 8-11-6 of the Illinois Municipal Code upon the privilege of using in the municipality any item of tangible personal property which is purchased outside Illinois at retail from a retailer, and which is titled or registered with an agency of Illinois government. The tax shall be at a rate of one (1%) percent of the selling price of such tangible property with selling price to have the meaning as defined in the Use Tax Act, approved July 14, 1955.

10-4-2

COLLECTION

Such tax shall be collected by the Illinois Department of Revenue for all municipalities imposing the tax and shall be paid before the title or certificate of registration for the personal property is issued.

DIVISION 5

AUTOMOBILE RENTING OCCUPATION TAX

10-5-1

TAX PROVISION

A tax is hereby imposed upon all persons engaged in the business of renting automobiles in this city at the rate of one percent of the gross receipts from such sales made in the course of such business while this ordinance is in effect, in accordance with the provisions of Section 8-11-7 of the Illinois Municipal Code.

10-5-2

REPORT TO BE FILED

Every such person engaged in such business in the city shall file on or before the last day of each calendar month, the report to the State Department of Revenue required by Sections Two and Three of "An Act in Relation to a Tax upon Persons Engaged in the Business of Selling Tangible Personal Property to Purchasers for Use or Consumption" approved June 29, 1933, as amended.

10-5-3

COLLECTION

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 renting of automobiles during the preceding month.

DIVISION 6

PUBLIC UTILITY TAX

10-6-1 TAX PROVISION

In accordance with the provisions of Section 8-11-2 of the Illinois Municipal Code, a tax is hereby imposed at the rate of five (5) percent of the gross receipts from that business originating within the corporate limits of the City of St. Elmo, Fayette County, Illinois upon the following:

- a) All persons engaged in the business of transmitting messages by means of electricity or radio magnetic waves, or fiber optics; and
- b) 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 St. Elmo, Fayette County, Illinois; and
- c) All persons engaged in the business of distributing, supplying, furnishing, or selling electricity for use or consumption within the corporate limits of the City of St. Elmo, Fayette County, Illinois.

10-6-2 DEFINITIONS

The words and phrases used in this Ordinance shall have the meanings ascribed to them in Section 8-11-2 of the Illinois Municipal Code.12-8-3

10-6-3 EXEMPTIONS

All units of local government and school districts within the municipality shall be exempt from imposition of this tax as authorized under paragraph (f) of section 8-11-2 of the Illinois Municipal Code.

10-6-4 COLLECTION

The tax imposed herein shall be paid to the City Treasurer at least quarterly and shall be transmitted with a report in sufficient detail so as to permit the City Treasurer to ascertain that said tax has been collected and paid in accord with the provisions of this Ordinance and the statute authorizing said tax.

Revised 5-7-01 Amended 4/4/2018

DIVISION 7

ELECTRICITY TAX

10-7-1 TAX IMPOSED

(a) A tax is imposed on all persons engaged in the following occupations and privileges:

The privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the municipality at the following rates, calculated on a monthly basis for each purchaser:

- (i) For the first 2,000 kilowatt-hours used or consumed in a month; 0.273 cents per kilowatt hour;
- (ii) For the next 48,000 kilowatt-hours used or consumed in a month; 0.1785 cents per kilowatt-hour;
- (iii) For the next 50,000 kilowatt-hours used or consumed in a month; 0.1607 cents per kilowatt-hour;
- (iv) For the next 400,000 kilowatt-hours used or consumed in a month; 0.1565 cents for kilowatt-hour;
- (v) For the next 500,000 kilowatt-hours used or consumed in a month; 0.1523 cents per kilowatt-hour;
- (vi) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.1428 cents per kilowatt-hour;
- (vii) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.1407 cents per kilowatt-hour;
- (viii) For the next 5,000,000 kilowatt-hours used or consumed in a month; 0.1386 cents per kilowatt-hour;
- (ix) For the next 10,000,000 kilowatt-hours used or consumed in a month; 0.1365 cents for kilowatt-hour;
- (x) For all electricity used or consumed in excess of 20,000,000 kilowatt-hours in a month; 0.1344 cents per kilowatt-hour.

(b) Pursuant to 65 ILCS 5/8-11-2, the rates set forth in subsection (a) above shall be effective May 1, 2018, for all residential and non-residential customers.

10-7-2 EXCEPTIONS

None of the taxes authorized by this Division may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State or any political sub-division thereof, nor shall any persons engaged in the busi-

ness of distributing, supplying, furnishing, or selling or transmitting gas, water, or electricity, or engaged in the business of transmitting messages, or using or consuming electricity acquired in a purchase at retail, be subject to taxation under the provisions of this Chapter for those transactions that are or may become subject to taxation under the provisions of the Municipal Retailer's Occupation Tax Act as authorized by 65 ILCS 5/8-11-1; nor shall any tax authorized by this Chapter be imposed upon any person engaged in a business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in businesses of the same class in the municipality, whether privately or municipally owned or operated, or exercising the same privilege within the municipality. All units of local government and school districts within the municipality shall be exempt from imposition of this tax as authorized by 65 ILCS 5/8-11-2.

10-7-3

ADDITIONAL TAXES

Such tax shall be in addition to other taxes levied upon the taxpayer or its business.

10-7-4

COLLECTION

The tax authorized by this Chapter shall be collected from the purchaser by the person maintaining a place of business in this State who delivers the electricity to the purchaser. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and if unpaid, is recoverable in the same manner as the original charge for delivering the electricity. Any tax required to be collected pursuant to this Chapter and any such tax collected by a person delivering electricity shall constitute a debt owed to the municipality by such person delivering the electricity. Persons delivering the 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 to reimburse the person delivering electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the municipality upon request. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the municipality in the manner prescribed by the municipality. Persons delivering electricity who file returns pursuant to this Section shall, at the time of filing such return, pay the municipality the amount of the tax collected pursuant to this Chapter. Said tax shall be paid quarterly, within 30 days after the end of each calendar quarter.

10-7-5

REPORTS TO MUNICIPALITY

On or before the last day of each calendar quarter any taxpayer who has not paid the tax imposed by this Chapter to a person delivering electricity as

set forth in Section 10-7-4 and who is not otherwise exempted from paying such tax shall make a return to the City Treasurer for the preceding calendar quarter stating:

- (a) His name.
- (b) His principal place of business.
- (c) His gross receipts and/or kilowatt-hour usage during the calendar quarter upon the basis of which the tax is imposed.
- (d) Amount of tax.
- (e) Such other reasonable and related information as the corporate authorities may require.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the City of St. Elmo 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.

10-7-6

CREDIT FOR OVER-PAYMENT

If it shall appear that an amount of tax has been paid which was not due under the provisions of this Chapter, 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 Chapter 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 therefore shall be so credited.

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

10-7-7

PENALTY

Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Chapter is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than One Hundred Seventy-Five Dollars (\$175.00) nor more than Five Hundred Dollars (\$500.00) in addition, shall be liable in a civil action for the amount of tax due. (See 65 ILCS 5/8-11-2.)

Revised 6-4-01; Amended April 5, 2010; Amended October 5, 2011

DIVISION 8

HOTEL MOTEL TAX

10-8-1

DEFINITIONS

As used in this Chapter, unless the context otherwise requires:

Hotel: Any building or buildings, in which the public may, for a consideration, obtain living quarter, sleeping or housekeeping accommodations. The term includes inns, motels, tourist homes or courts, lodging houses, rooming houses and apartment houses.

Operator: Any person operating a hotel.

Occupancy: The use or possession, or the right to the use or possession, of any room or rooms in a hotel for any purpose, or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room or rooms.

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

Permanent Resident: Any person who occupied or has the right to occupy any room or rooms in a hotel for at least 30 consecutive days.

Rent or Rental: The consideration received for occupancy, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature.

City: The City of St. Elmo, Fayette County, Illinois.

Person: Any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, or a receiver, executor, trustee, guardian or other representative appointed by order of any court.

10-8-2

TAX IMPOSED

A tax is imposed upon persons engaged in the business of renting, leasing or letting rooms in a hotel in the City, at a rate of 5% of the gross rental receipts from such renting, leasing, or letting, excluding, however, from gross rental receipts, the proceeds of such renting, leasing or letting to permanent residents of that hotel. Persons subject to said tax may reimburse themselves for their tax liability for such tax by separately stating

such tax as an additional charge, which charge may be stated in combination, in a single amount, with state tax imposed under "The Hotel Operators' Occupation Tax Act."

10-8-3

USE OF TAX FUNDS BY CITY

The amounts collected by the City pursuant to this chapter shall be expended by the City solely to promote tourism and conventions within the City or otherwise to attract non-resident overnight visitors to the City. No funds received pursuant to this chapter shall be used to advertise for or otherwise promote new competition in the hotel/motel business.

10-8-4

EXEMPTIONS

(a) Nothing in this chapter shall be construed to authorize the City to impose a tax upon the privilege of engaging in any business which under the Constitution of the United States may not be made the subject of taxation by the state.

(b) Persons engaged in the business of renting, leasing or letting rooms in a hotel only to permanent residents are exempt from the provisions of this chapter.

10-8-5

BOOKS AND RECORDS

Every operator shall keep separate books or records of his business as an operator so as to show the rents and occupancies taxable under this chapter separately from his transactions not taxable hereunder. If any such operator fails to keep such separate books or records, he shall be liable to tax at the rate designated in 10-8-2 of this chapter upon the entire proceeds from his hotel.

10-8-6

RETURN OF TAXPAYER; PAYMENT OF TAX

(a) Except as provided hereinafter in this section, on or before the last day of each calendar month, every person engaged in the business of renting, leasing or letting rooms in a hotel in this City during the preceding calendar month shall file a return with the City Clerk stating:

- (1) The name of the operator;
- (2) His residence address and the address of his principal place of business and the address of the principal place of business (if that is a different address) from which he engages in the business of renting, leasing or letting rooms in a hotel in this City;
- (3) Total amount of rental receipts received by him during the preceding calendar month from renting, leasing or letting rooms during such preceding calendar month;

- (4) Total amount of rental receipts received by him during the preceding calendar month from renting, leasing or letting rooms to permanent residents during such preceding calendar month;
 - (5) Total amount of other exclusions from gross rental receipts allowed by this chapter;
 - (6) Gross rental receipts which were received by him during the preceding calendar month and upon the basis of which the tax is imposed;
 - (7) The amount of tax due;
 - (8) The amount of penalty due, if any; and
 - (9) Such other reasonable information as the City may require.
- (b) If the Illinois Department of Revenue has authorized the operator to file returns on a quarter annual basis or annual basis as provided for in ILCS Ch. 35, Act 145, Section 6 of "The Hotel Operators' Occupation Tax Act", the operator may file returns and pay tax liability to the City at the same time that he is required to file his returns and pay his tax liability to the state.
- (c) Such quarter annual and annual returns, as to form and substance, shall subject to the same requirements as monthly returns.
- (d) Notwithstanding any other provision in this chapter concerning the time within which an operator may file his return, in the case of any operator who ceases to engage in a kind of business which makes him responsible for filing returns under this chapter, such operator shall file a final return under this chapter with the City Clerk not more than one month after discontinuing such business.
- (e) Where the same person has more than one hotel located within the City, such person shall file separate returns for each such hotel.
- (f) In his return, the operator shall determine the value of any consideration other than money received by him in connection with the renting, leasing or letting of rooms in the course of his business and he shall include such value in his return. Such determination shall be subject to review and revision by the City in the manner hereinafter provided for the correction of returns.
- (g) Where the operator is a corporation, the return filed on behalf of such corporation shall be signed by the president, vice-president, secretary or treasurer or by the properly accredited agent of such corporation.
- (h) The person filing the return herein provided for shall, at the time of filing such return, pay to the City Clerk the amount of tax herein im-

posed. All moneys received by the City Clerk for taxes herein imposed shall be promptly deposited in a separate account designated as St. Elmo Tourism Fund.

- (i) The City may, upon separate written notice to a taxpayer, require the taxpayer to prepare and file with the City Clerk on a form prescribed by the City within not less than 60 days after receipt of the notice an annual information return for the tax year specified in the notice. Such annual return to the City shall include a statement of gross receipts as shown by the operator's last state income tax return. If the total receipts of the business as reported in the state income tax return do not agree with the gross receipts reported to the City for the same period, the operator shall attach to his annual information return a schedule showing a reconciliation of the two amounts and the reason for the difference. The operator's annual information return to the City shall also include any additional reasonable information which the City deems would be helpful in determining the accuracy of the monthly, quarterly or annual tax returns by such operator as hereinbefore provided for in this section.
- (j) If the annual information return required by this section is not filed when and as required, the taxpayer shall be liable for a penalty equal to 1% of the tax due from such taxpayer under this chapter during the period to be covered by the annual return for each month or fraction of a month until such return is filed as required with the penalty to be assessed and collected in the same manner as any other penalty provided for in this chapter.
- (k) If the monthly, quarter annual, or annual tax return and payment of tax is not filed and paid when due, the taxpayer shall be liable for a penalty equal to 1½% per month or a fraction thereof of the delinquent tax then due from the taxpayer until such return is filed and tax paid with the penalty to be assessed and collected in the same manner as any other penalty provided for in this chapter.
- (l) The chief executive officer, proprietor, owner or highest ranking manager shall sign the annual return to certify the accuracy of the information contained therein. Any person who willfully signs the annual return containing false or inaccurate information shall be guilty of perjury and punished accordingly. The annual return form prescribed by the City shall include a warning that the person signing the return may be liable for perjury.

(m) The foregoing portion of this section concerning the filing of an annual information return shall not apply to an operator who is not required to file an income tax return with the United States Government.

10-8-7

TAX COLLECTION; ENFORCEMENT

The corporate authorities of the City shall have all powers necessary to enforce the collection of the tax imposed and collected by the City pursuant to this chapter including but not limited to subpoena power and the power to create and enforce liens. No such lien shall affect the rights of bona fide purchasers, mortgagees, judgment creditors or other lienholders who acquire their interests in such property prior to the time a notice of such lien is placed on record in the office of the Recorder of Deeds of Fayette County. Any such lien placed on record shall only act as a lien upon property located within the corporate boundaries of the City. In creating a lien pursuant to this section, the procedures for its notice and enforcement shall be the same as those provided for in the Retailers' Occupation Tax Act, as now or hereafter amended, for state tax liens, and the Recorder of Deeds with whom a notice of such lien is filed shall treat such lien as a state tax lien for recording purposes.

10-8-8

CREATION OF TOURISM COMMITTEE

- (a) Concurrent with the adoption of this chapter, there is created a Tourism Committee to oversee and approve the administration and expenditure of taxes imposed pursuant to this chapter. The Committee shall consist of seven members to be appointed by the Mayor with the approval of the City Council. The committee shall be constituted as follows: at least one member of the St. Elmo Business Association, at least one member shall be an owner or operator of a retail business in the City, at least two members shall be owners or operators of motels, hotels, or bed and breakfast operations within the City, at least one member shall be a member of the St. Elmo City Council, and the remaining three members shall be citizens of the city at large. The term for each member shall be for one year and shall commence on the first Monday of May.
- (b) The Committee shall meet periodically during the year at times set by the Committee. The Committee shall elect from its members a chairperson, vice-chairperson and secretary. The chairperson shall be responsible for presiding over the meetings. In the absence of the chairperson, the vice-chairperson shall preside. The secretary shall be responsible for keeping and maintaining the minutes of the Committee meetings.
- (c) All meetings of the Committee shall be open to the general public and a notice of each meeting shall be given by publishing a notice of the

date, place, and time of the meeting in a locally distributed newspaper at least seven days but not more than 14 days prior to the date of the meeting which notice shall state the general purpose of the meeting and that it is open to the general public. A majority of the Committee shall constitute a quorum. The Committee shall determine how funds collected pursuant to this chapter shall be expended provided that such expenditures shall be limited to promoting tourism and conventions within the City or otherwise attracting nonresident overnight visitors to the City. No funds shall be used to advertise for or otherwise promote new competition in the hotel/motel business.

- (d) All expenditures authorized by the Committee shall only be approved at a duly called meeting with a published notice to the general public as heretofore provided, and then by a vote of a majority of the members of the Committee.
- (e) The Committee shall report on or before the first Monday in February of each year to the City Council. Such report shall be in writing and shall specify the purposes for which the disbursements were made during the prior calendar year and shall also contain an itemized statement of all receipts and disbursements made during the prior calendar year.

10-8-9

PENALTY

Any person, firm or corporation violating any provision of the Chapter shall be fined not less than One Hundred Seventy-Five Dollars (\$175.00) nor more than Five Hundred Dollars (\$500.00) for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Adopted 8/6/07; Amended April 5, 2010; Amended October 5, 2011

