

TITLE III: ADMINISTRATION

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CHAPTER 30: GOVERNING BODY

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Boards and Commissions, see Ch. 34

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GENERAL PROVISIONS

§ 30.01 COMPENSATION.

Compensation for elected officials is hereby adopted by reference and incorporated herein as if set out in full.

(Ord. 631, passed 10-4-2004)

MAYOR

§ 30.15 DESIGNATION OF CHIEF EXECUTIVE OFFICER OF THE VILLAGE.

(A) Henceforth the designation of the Chief Executive Officer of the Village of Forsyth shall be changed from President to Mayor.

(B) This section shall be in effect upon its publication in pamphlet form.
(Ord. 558, passed 12-3-2001)

§ 30.16 MAYOR; GENERALLY.

(A) The Mayor of the village shall be the President of the Board of Trustees and presiding officer at all meetings of the Board of Trustees.
(ILCS Ch. 65, Act 5, § 3.1-40-30)

(B) A Mayor shall be elected by the electors of the village at a general municipal election for a 4-year term and serve until his or her successor is elected and has qualified.
(ILCS Ch. 65, Act 5, § 3.1-15-10)

(C) The Mayor shall perform the duties and exercise the powers conferred on mayors of villages by the Illinois Compiled Statutes and ordinances.
(Prior Code, § 29.01)

§ 30.17 MAYOR PRO TEM.

If a temporary absence or disability of the Mayor incapacitates him or her from the performance of his or her duties, the Board of Trustees shall elect 1 of its members to act as Mayor Pro Tem.
(ILCS Ch. 65, Act 5, § 3.1-35-35) (Prior Code, § 29.02)

BOARD OF TRUSTEES

§ 30.30 COMPOSITION.

The Board of Trustees shall consist of the Mayor and 6 Trustees who shall hold their respective offices for 4 years and until their successors are elected and qualified.
(ILCS Ch. 65, Act 5, §§ 3.1-25-5 *et seq.*) (Prior Code, § 30.01)

Governing Body

§ 30.31 POWERS AND DUTIES.

Powers and duties of the Board of Trustees are found in ILCS Ch. 65, Act 5, § 3.1-45-5, ILCS Ch. 65, Act 5, § 3.1-45-15, and ILCS Ch. 65, Act 5, §§ 3.1-40-5 *et seq.*
(Prior Code, § 30.02)

§ 30.32 REGULAR MEETINGS.

(A) The regular meetings of the Board of Trustees of the village shall be held on the first and third Mondays of each month at 7:00 p.m., at the Village Hall. Public notice of these regular meetings shall be given at the beginning of each fiscal year and shall state the regular times, dates, and places of the meetings as required by ILCS Ch. 5, Act 120, § 2.02, and ILCS Ch. 5, Act 120, § 2.03.

(B) Any regular meeting falling upon a legal holiday shall be held as established by the Mayor of the Board of Trustees at the beginning of the fiscal year, as required by ILCS Ch. 5, Act 120, § 2.02, and ILCS Ch. 5, Act 120, § 2.03.

(Prior Code, § 30.03) (Ord. 2, passed 3-19-1958; Am. Ord. 163, passed 2-16-1976; Am. Ord. 191, passed 8-21-1978; Am. Ord. 204A, passed 12-18-1978)

Statutory reference:

Meetings, see ILCS Ch. 65, Act 5, § 3.1-40-25

§ 30.33 SPECIAL MEETINGS.

(A) Special meetings may be called by the Mayor or by any 3 members of the Board of Trustees by notice in writing filed with the Village Clerk at least 48 hours prior to the time specified for the meeting. At least 48-hours, written notice of the special meeting shall be given by the Clerk, which notice shall specify the time and purpose of the meeting and shall be delivered to the Mayor and each member of the Board of Trustees personally, if he or she can be found, and if he or she cannot be found, then by leaving a copy of the notice at the home of the person in the presence of an adult member of the family of the Mayor or Trustee.

(B) Special meetings may be held without notice when the Mayor and all members of the Board of Trustees are present in person or consent in writing to the holding of the meeting; the written consent to be filed with the Clerk prior to the beginning of the meeting.

(Prior Code, § 30.04)

§ 30.34 MEETINGS OPEN TO THE PUBLIC.

All meetings of the Board of Trustees shall be open to the public, except as set forth in ILCS Ch. 5, Act 120, §§ 1 *et seq.*

(Prior Code, § 30.05)

CHAPTER 31: OFFICIALS AND EMPLOYEES

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STATE GIFT BAN ACT

§ 31.01 ADOPTION OF ACT.

(A) The State Gift Ban Act (ILCS Ch. 5, Act 430, §§ 10-10 *et seq.*) is hereby adopted as required by ILCS Ch. 5, Act 430, § 70-5.

(B) The solicitation or the acceptance of gifts prohibited to be solicited or accepted under the Act is prohibited by any elected or appointed official or any employee of the Village of Forsyth. (Ord. 521, passed 7-6-1999) Penalty, see § 10.99

§ 31.02 ETHICS OFFICER.

To the extent authorized by law and to the extent required by ILCS Ch. 5, Act 430, § 20-23, the Village Mayor is appointed to serve as the Ethics Officer of the Village of Forsyth. The Ethics Officer's duties shall be as provided in ILCS Ch. 5, Act 430, § 20-23. (Ord. 521, passed 7-6-1999)

§ 31.03 STATE LEGISLATIVE ETHICS COMMISSION; COMPLAINTS.

All complaints for violations of the Act and this subchapter shall be filed with the State Legislative Ethics Commission, created by ILCS Ch. 5, Act 430, § 20-5.
(Ord. 521, passed 7-6-1999)

§ 31.04 FUTURE AMENDMENTS TO ACT.

Any amendment to the State Gift Ban Act (ILCS Ch. 5, Act 430, §§ 10-10 *et seq.*) that becomes effective after the passage of this subchapter shall be incorporated into this subchapter by reference and shall be applicable to the solicitation and acceptance of gifts. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this subchapter by reference without formal action by the corporate authorities of the Village of Forsyth.
(Ord. 521, passed 7-6-1999)

§ 31.05 FUTURE DECLARATION OF UNCONSTITUTIONALITY OF ACT.

(A) If the Illinois Supreme Court declares the State Gift Ban Act (ILCS Ch. 5, Act 430, §§ 10-10 *et seq.*) unconstitutional in its entirety, then this subchapter shall be repealed as of the date that the Supreme Court's decision becomes formal and not subject to any further appeals or rehearings. This subchapter shall be deemed repealed without further action by the corporate authorities of the Village of Forsyth if the Act is found unconstitutional by the Illinois Supreme Court.

(B) If the Illinois Supreme Court declares part of the State Gift Ban Act (ILCS Ch. 5, Act 430, §§ 10-10 *et seq.*) unconstitutional but upholds the constitutionality of the remainder of the Act or does not address the remainder of the Act, then the remainder of the Act as adopted by this subchapter shall

remain in full force and effect; however, that part of this subchapter relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the corporate authorities of the Village of Forsyth.

(Ord. 521, passed 7-6-1999)

§ 31.06 EFFECTIVE DATE.

This subchapter shall be in effect upon its passage, approval, and publication as provided by law.
(Ord. 521, passed 7-6-1999)

GENERAL PROVISIONS

§ 31.20 VILLAGE ATTORNEY.

(A) The Village Administrator, with the approval of the Mayor and the Board of Trustees, may employ an attorney or attorneys, as independent contractor or as independent contractors, to represent or advise the village on legal matters as the Mayor and Board of Trustees shall determine.

(B) The attorney or attorneys employed by the village shall attend Village Board meetings as corporate counsel, act as village prosecutor, draw up ordinances, contracts, and other legal documents as requested by the Mayor and Board of Trustees, as well as perform any other legal services as may be directed by the Village Administrator.
(Prior Code, § 31.01) (Ord. 335, passed 1-4-1988)

§ 31.21 VILLAGE TREASURER.

(A) (1) The Office of Village Treasurer is hereby established.

(2) The Treasurer shall be appointed by the Mayor of the Village Board of Trustees with the advice and consent of the Board of Trustees.

(B) Compensation of the Village Treasurer shall be as set by the Board of Trustees from time to time.

(Prior Code, § 31.02) (Ord. 3, passed 3-19-1958; Am. Ord. 194, passed 5-1-1978; Am. Ord. 265A, passed 4-18-1983; Am. Ord. 267, passed 4-18-1983)

Statutory reference:

Authority to appoint Village Treasurer, see 65 ILCS Ch. 65, Act 5, § 3.1-30-5

§ 31.22 VILLAGE CLERK.

(A) There is hereby established the Office of City Clerk. The Clerk shall be appointed by the Mayor with the advice and consent of the Board of Trustees.

(B) The powers and duties of the Village Clerk shall be those provided for by ordinance and statute.

(Prior Code, § 31.03)

Statutory reference:

Authority to appoint Village Clerk, see ILCS Ch. 65, Act 5, § 3.1-30-5

§ 31.23 VILLAGE ENGINEER.

For provisions regarding the Village Engineer, see Subdivision Ordinance.
(Prior Code, § 31.04)

§ 31.24 BUILDING INSPECTOR.

For provisions regarding the Building Inspector, see §§ 90.26, 95.10, 150.009, and 154.02.
(Prior Code, § 31.05)

§ 31.25 PLAT OFFICER.

The Village Administrator shall serve as Plat Officer. For provisions regarding the Plat Officer, see Subdivision Ordinance.
(Prior Code, § 31.06)

§ 31.26 PUBLIC WORKS DIRECTOR.

The village has provided for the employment of a full-time Public Works Director.
(Prior Code, § 31.07, § 31.08) (Ord. 373, passed 9-25-1991)

Cross-reference:

Appointment, powers, and duties of Water and Sewer Department Superintendent, see Title V

Editor's note:

Ordinances 211, 261, and 286, upon which §§ 31.26 and 31.27 were based, were superseded by Ordinance 298, adopting the Personnel Policy and Practices Manual.

Officials and Employees

§ 31.27 DEPUTY CLERK.

(A) The Office of Deputy Clerk is established pursuant to ILCS Ch. 65, Act 5, § 3.1-30-10.

(B) The Deputy Clerk shall be appointed from time to time by the Village Administrator.
(Prior Code, § 31.09) (Ord. 316, passed 3-2-1987)

§ 31.28 LIBRARIAN.

The position of Librarian is created to supervise the Forsyth Public Library. The Mayor and Board of Trustees shall provide by ordinance for the appointment of this position.
(Prior Code, § 31.10)

Cross-reference:

Public Library, see Ch. 93

§ 31.29 VILLAGE ADMINISTRATOR.

(A) The Office of Village Administrator is hereby created. The Village Administrator shall be appointed by the Village Mayor, the appointment being subjected to confirmation by the Board of Trustees.

(B) The Village Administrator shall be appointed on the basis of education and professional ability. The appointment shall be made without regard to political consideration, race, religion, age, or sex. The successful candidate need not be a resident of the village at the time of appointment, but shall become a resident within 90 days of assuming office, unless the residence requirement is altered or waived by the Village Board.

(C) The salary of the Village Administrator shall be determined by ordinance by the Board of Trustees.

(D) The Village Administrator shall:

(1) Coordinate and supervise the activities of all the various departments of the village;

(2) Promulgate administrative rules and regulations as long as they are not in conflict with other local or state law;

(3) Appoint and, when necessary, suspend or remove all village employees, except when otherwise provided by law. All appointments shall be based solely upon merit and fitness for the job, and all suspensions and dismissals shall be for cause, without regard to race, sex, religious convictions, or political belief or affiliation;

(4) Recommend to Village Board a classification, pay, and benefit plan. Recommend other courses of action and possible alternatives;

(5) Prepare the agenda for meetings of the Board of Trustees;

(6) Keep the Mayor and Board of Trustees informed of the activities of various activities and fiscal condition of each village fund;

(7) Attend and participate in all meetings of the Board of Trustees, unless excused from attending. Participation does not include the right to vote;

(8) Effectively and efficiently administer the policies of the Board of Trustees and enforce the code of ordinances;

(9) Promote good relations with other governmental agencies and the public;

(10) Assume the duties of Budget Officer of the village as defined in ILCS Ch. 65, Act 5, § 8-2-9.1, and ILCS Ch. 65, Act 5, § 8-2-9.10. There shall be no additional remuneration for acting as Budget Officer;

(11) Act as purchasing agent for the village within limitations and under conditions as established from time to time by the Board of Trustees:

(a) Make in the ordinary course of business all purchases of materials and supplies necessary for the village as provided by annual appropriation ordinance; provided that, on purchases of more than \$3,000, he or she shall first procure the approval of the Board of Trustees before making the purchases, and in all cases he or she shall comply with the statutory provisions as to solicitation of bids; and

(b) Whenever, in the judgment of the Village Administrator, exigency shall require the making of any purchases of material or supplies for a price in excess of \$3,000 but less than \$20,000, prior to the next regular meeting of the Board of Trustees, the Village Administrator, with written approval of the Village Mayor, may make the purchase without waiting for formal approval of specific purchase by the Board as a whole; provided that the purchase shall not violate any relevant statutory

requirement as to solicitation of bids.

(12) Perform any other tasks which may be required of him or her from time to time by the Village Mayor and Board of Trustees.

(Prior Code, § 31.11) (Ord. 372, passed 7-15-1991; Am. Ord. 386, passed 7-6-1992; Am. Ord. 463, passed 12-4-1995)

Officials and Employees

§ 31.30 ZONING OFFICER.

The Village Administrator shall act as Zoning Officer. See Zoning Ordinance and Land Subdivision Ordinance.

(Prior Code, § 31.12)

Editor's note:

See officers' and employees' job descriptions for listing of other duties and responsibilities as well as qualifications.

§ 31.31 STATE OFFICIALS AND EMPLOYEES ETHICS ACT.

(A) The regulations of ILCS Ch. 5, Act 430, § 5-15, and ILCS Ch. 5, Act 430, §§ 10-10 through 10-40, of the State Officials and Employees Ethics Act, ILCS Ch. 5, Act 430, §§ 1-1 *et seq.* (hereinafter referred to as the Act in this section), are hereby adopted by reference and made applicable to the officers and employees of the village to the extent required by ILCS Ch. 5, Act 430, § 70-5.

(B) The solicitation or acceptance of gifts prohibited to be solicited or accepted under the Act, by any officer or any employee of the village, is hereby prohibited.

(C) The offering or making of gifts prohibited to be offered or made to an officer or employee of the village under the Act is hereby prohibited.

(D) The participation in political activities prohibited under the Act, by any officer or employee of the village, is hereby prohibited.

(E) For purposes of this section, the terms officer and employee shall be defined as set forth in ILCS Ch. 5, Act 430, § 70-5(c).

(F) The penalties for violations of this section shall be the same as those penalties set forth in ILCS Ch. 5, Act 430, § 50-5 for similar violations of the Act.

(G) This section does not repeal or otherwise amend or modify any existing ordinances or policies which regulate the conduct of village officers and employees. To the extent that any such existing ordinances or policies are less restrictive than this section, however, the provisions of this section shall prevail in accordance with the provisions of ILCS Ch. 5, Act 430, § 70-5(a).

(H) Any amendment to the Act that becomes effective after the effective date of this section shall be incorporated into this section by reference and shall be applicable to the solicitation, acceptance, offering, and making of gifts and to prohibited political activities. However, any amendment that makes

its provisions optional for adoption by municipalities shall not be incorporated into this section by reference without formal action by the corporate authorities of the village.

(I) If the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this section shall be repealed as of the date that the Illinois Supreme Court's decision becomes final and not subject to any further appeals or rehearings. This section shall be deemed repealed without further action by the corporate authorities of the village if the Act is found unconstitutional by the Illinois Supreme Court.

(J) If the Illinois Supreme Court declares part of the Act unconstitutional but upholds the constitutionality of the remainder of the Act, or does not address the remainder of the Act, then the remainder of the Act as adopted by this section shall remain in full force and effect. However, the part of this section relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the corporate authorities of the village.

(K) This section shall be in full force and effect upon its passage, approval, and publication in pamphlet form as provided by law.
(Ord. 620, passed 5-3-2004)

CHAPTER 32: FINANCE AND REVENUE

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- 32.02 Tax levy ordinance
- 32.03 Budget law
- 32.04 Municipal retailers' occupation tax and municipal service occupation tax
- 32.05 Hotel and motel tax

Locally Imposed and Administered Tax Rights and Responsibility

- 32.20 Title
- 32.21 Scope
- 32.22 Definitions
- 32.23 Notices
- 32.24 Late payment
- 32.25 Payment
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- 32.36 Review of liens
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Cross-reference:

Business Regulations, see Title XI

Governing Body, see Ch. 30

Village Administrator, see § 31.29

Village Treasurer, see § 31.21

GENERAL PROVISIONS

§ 32.01 FISCAL YEAR.

The village financial planning and reporting procedures shall be based on a fiscal year that commences on the first day of May in each calendar year and ends on the thirtieth day of April in the following year.

(Prior Code, § 35.01) (Ord. 7, passed 3-19-1978)

§ 32.02 TAX LEVY ORDINANCE.

(A) A tax levy ordinance shall be prepared and adopted annually to levy the taxes as authorized and needed to anticipate expenditures and to meet any outstanding bond issues.

(ILCS Ch. 65, Act 5, § 8-3-1)

(B) A certified copy of the tax levy ordinance shall be filed by the Village Clerk with the Macon County Clerk not later than the last Tuesday in December.

(Prior Code, § 35.02)

§ 32.03 BUDGET LAW.

(A) The village adopts the provisions of ILCS Ch. 65, Act 5, §§ 8-2-9.1 through 8-2-9.10.

(B) The Village Administrator serves as Budget Officer.

(Ord. 372, passed 7-15-1991)

(Prior Code, § 35.03)

§ 32.04 MUNICIPAL RETAILERS' OCCUPATION TAX AND MUNICIPAL SERVICE OCCUPATION TAX.

(A) (1) A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled and registered with an agency of this state's government, at retail in this municipality at the rate of 1% of the gross receipts from the sales made in the course of the business while this section is in effect; and a tax is hereby imposed upon all persons engaged in this municipality in the business of making sales of service at the rate of 1% of

the selling price of all tangible personal property transferred by the service person as an incident to a sale of service.

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(2) The Non-Home Rule Municipal Retailers' Occupation Tax and the Non-Home Rule Municipal Service Occupation Tax shall not be applicable to the sales of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine-testing materials, syringes, and needles used by diabetics.

(3) The imposition of these non-home rule taxes is in accordance with the provisions of ILCS Ch. 65, Act 5, §§ 8-11-1.3 and 8-11-1.4.

(B) (1) The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department of Revenue of the State of Illinois.

(2) The Department of Revenue shall have full power to administer and enforce the provisions of this section.

(C) The Village Clerk is hereby directed to file a certified copy of this section and a certification that this section received referendum approval with the Illinois Department of Revenue on or before 10-1-2007.

(D) This section shall take effect on 1-1-2008 next following the adoption and filing of this section with the Department of Revenue.

(E) This section shall be published in pamphlet form.
(Ord. 570, passed 5-6-2002; Am. Ord. 581, passed 10-21-2002; Am. Ord. 712, passed 5-4-2007)

§ 32.05 HOTEL AND MOTEL TAX.

(A) *Definitions.* The definition of words, terms, and phrases contained in ILCS Ch. 65, Act 5, § 8-3-14, and the Hotel Operators Occupational Tax Act (ILCS Ch. 35, Act 510, § 6, and Ch. 35, Act 145, §§ 1 *et seq.*) are hereby adopted by reference and made part of this section.

(B) *Purpose.* It is declared to be the purpose of this section to provide revenue, to promote tourism and conventions within the village, and to attract nonresident overnight visitors to the village.

(C) *Levy of tax.* It is hereby levied pursuant to the provisions of ILCS Ch. 65, Act 5, § 8-3-14, a tax upon all persons engaged in the Village of Forsyth in the business of renting, leasing, or letting rooms in a hotel or motel at a rate of 3% of the gross rental receipts from the renting, leasing, or letting, excluding, however, from gross rental receipts, the proceeds of the renting, leasing, or letting to permanent residents of that hotel or motel.
(Ord. 370, passed 6-17-1991)

(D) *Payment; generally.*

(1) The tax levied hereunder shall be due and payable at the time and in the manner and form prescribed for payment of the sales tax under the sales tax law of the State of Illinois.

(2) The tax herein levied shall be paid to the Treasurer of the Village of Forsyth.

(E) *Collection of tax; violations.*

(1) The tax levied hereunder shall be collected by the hotel or motel operator or owner.

(2) A hotel or motel operator or owner who willfully or intentionally fails, neglects, or refuses to collect or pay the full amount of the tax levied herein, or willfully or intentionally fails, neglects, or refuses to comply with the provisions of this section, shall be deemed guilty of an offense and upon conviction thereof shall be fined not more than \$100, including costs.

(F) *Returns and remittance of tax.* Returns and remittance of the tax herein levied and collected shall be made to the Treasurer of the Village of Forsyth, at the time as prescribed for returns and remittances required by the sales tax law of the State of Illinois.

(Prior Code, § 35.05)

LOCALLY IMPOSED AND ADMINISTERED TAX RIGHTS AND RESPONSIBILITY

§ 32.20 TITLE.

This subchapter shall be known as, and may be cited as, the Locally Imposed and Administered Tax Rights and Responsibility Ordinance.

(Ord. 540, passed 1-8-2001)

§ 32.21 SCOPE.

The provisions of this subchapter shall apply to the village's procedures in connection with all of the village's locally imposed and administered taxes.

(Ord. 540, passed 1-8-2001)

Finance and Revenue

§ 32.22 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT. The Local Government Taxpayers' Bill of Rights Act.

CORPORATE AUTHORITIES. The village's Mayor and Board of Trustees.

LOCAL TAX ADMINISTRATOR.

(1) The village's Mayor is charged with the administration and collection of the locally imposed and administered taxes, including staff, employees, or agents to the extent they are authorized by the Local Tax Administrator to act in the Local Tax Administrator's stead.

(2) The ***LOCAL TAX ADMINISTRATOR*** shall have the authority to implement the terms or this subchapter to give full effect to this subchapter.

(3) The exercise of the authority by the Local Tax Administrator shall not be inconsistent with this subchapter and the Act.

LOCALLY IMPOSED AND ADMINISTERED TAX or TAX.

(1) Each tax imposed by the village that is collected or administered by the village not an agency or department of the state.

(2) It does not include any taxes imposed upon real property under the Property Tax Code or fees collected by the village other than infrastructure maintenance fees.

NOTICE. Each audit notice, collection notice, or other similar notice or communication in connection with each of the village's locally imposed and administered taxes.

TAX ORDINANCE. Each ordinance adopted by the village that imposes any locally imposed and administered tax.

TAXPAYER. Any person required to pay any locally imposed and administered tax and generally includes the person upon whom the legal incidence of the 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 village.

VILLAGE. The Village of Forsyth, Illinois.
(Ord. 540, passed 1-8-2001)

§ 32.23 NOTICES.

(A) Unless otherwise provided, whenever notice is required to be given, the notice is to be in writing mailed 7 calendar days prior to the day fixed for any applicable hearing, audit, or other scheduled act of the Local Tax Administrator.

(B) The notice shall be sent by the Local Tax Administrator as follows:

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

(2) Personal service or delivery.

(Ord. 540, passed 1-8-2001)

§ 32.24 LATE PAYMENT.

Any notice, payment, remittance, or other filing required to be made to the village pursuant to any tax ordinance shall be considered late unless it is physically received by the village on or before the due date, or 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 village, with adequate postage prepaid.

(Ord. 540, passed 1-8-2001)

§ 32.25 PAYMENT.

Any payment or remittance received for a tax period shall be applied in the following order:

- (A) First to the tax due for the applicable period;
- (B) Second to the interest due for the applicable period; and
- (C) Third to the penalty for the applicable period.

(Ord. 540, passed 1-8-2001)

§ 32.26 CERTAIN CREDITS AND REFUNDS.

(A) (1) The village 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.

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(2) However, a taxpayer shall not be deemed to have paid the tax voluntarily if the taxpayer lacked knowledge of the facts upon which to protest the taxes at the time of payment or if the taxpayer paid the taxes under duress.

(B) (1) 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.

(2) The village 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 village.

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

(1) The taxpayer shall submit to the Local Tax Administrator in writing a claim for credit or refund together with a statement specifying:

- (a) The name of the locally imposed and administered tax subject to the claim;
- (b) The tax period for the locally imposed and administered tax subject to the claim;
- (c) The date of the tax payment subject to the claim and the cancelled check or receipt for the payment;
- (d) The taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and
- (e) A request for either a refund or a credit in connection with the claim to be applied to the amount of tax, interest, and penalties overpaid, and, as applicable, related interest on the amount overpaid; provided, however, that there shall be no refund and only a credit given in the event the taxpayer owes any monies to the village.

(2) 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:

- (a) Grant the claim; or
- (b) Deny the claim, in whole or in part, together with a statement as to the reason for the denial or the partial grant and denial.

(3) In the event the Local Tax Administrator grants, in whole or in part, a claim for refund or credit, the amount of the grant for refund or credit shall bear interest at the rate of 5% 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.

(Ord. 540, passed 1-8-2001)

§ 32.27 AUDIT PROCEDURE.

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

(B) Each notice of audit shall contain the following information:

- (1) The tax;
- (2) The time period of the audit; and
- (3) A brief description of the books and records to be made available for the auditor.

(C) 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.

(D) 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 the 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.

(E) 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 and copying by the village.

(F) It is the duty and responsibility of every taxpayer to make available its books and records for inspection by the village. If the taxpayer or tax collector fails to provide the documents necessary for audit within the time provided, the Local Tax Administrator may issue a tax determination and assessment based on the Tax Administrator's determination of the best estimate of the taxpayer's tax liability.

(G) 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 village's determination of the amount of overpayment.

(H) 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 the tax.
(Ord. 540, passed 1-8-2001) Penalty, see § 10.99

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§ 32.28 APPEAL.

(A) The Local Tax Administrator shall send written notice to a taxpayer upon the Local Tax Administrator's issuance of a protestable notice of tax due, a bill, a claim denial, or a notice of claim reduction regarding any tax. The notice shall include the following information:

- (1) The reason for the assessment;
- (2) The amount of the tax liability proposed;
- (3) The procedure for appealing the assessment; and
- (4) The obligations of the village during the audit, appeal, refund, and collection process.

(B) A taxpayer who received 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.

(C) If a timely written notice and petition for hearing is filed, the Local Tax Administrator shall fix the time and place for hearing and shall give written notice to the taxpayer. The hearing shall be scheduled for a date within 14 days of receipt of the written protest and petition for hearing, unless the taxpayer requests a later date convenient to all parties.

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

(E) Upon the showing of reasonable cause by the taxpayer and the full payment of the 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.

(Ord. 540, passed 1-8-2001)

§ 32.29 HEARING.

(A) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under § 32.28, the Local Tax Administrator shall conduct a hearing regarding any appeal.

(B) No continuances shall be granted except in cases where a continuance is absolutely necessary to protect the rights of the taxpayer. Lack of preparation shall not be grounds for a continuance. Any continuance granted shall not exceed 14 days.

(C) At the hearing, the Local Tax Administrator shall preside and shall hear testimony and accept any evidence relevant to the tax determination, audit, or assessment. The strict rules of evidence applicable to judicial proceedings shall not apply.

(D) At the conclusion of the hearing, the Local Tax Administrator shall make a written determination on the basis of the evidence presented at the hearing. The taxpayer or tax collector shall be provided with a copy of the written decision.

(Ord. 540, passed 1-8-2001)

§ 32.30 INTEREST AND PENALTIES.

(A) *Generally.* 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.

(B) *Interest.* The village hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax, to be 5% per annum, based on a year of 365 days and the number of days elapsed.

(C) *Late filing and payment penalties.*

(1) 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.

(2) If no return is filed within the time or manner provided by the controlling tax ordinance and prior to the village 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.

(3) A late filing or payment penalty shall not apply if a failure to file penalty is imposed by the controlling ordinance.

(Ord. 540, passed 1-8-2001)

§ 32.31 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.

(Ord. 540, passed 1-8-2001)

§ 32.32 INSTALLMENT CONTRACTS.

(A) The village may enter into an installment contract with the taxpayer for the payment of taxes under the controlling tax ordinance.

(B) The Local Tax Administrator may not cancel any installment contract so entered unless the taxpayer fails to pay any amount due and owing.

(C) Upon written notice by the Local Tax Administrator that the payment is 30 days delinquent, the taxpayer shall have 14 working days to cure any delinquency.

(D) 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 Tax Administrator, the installment contract shall be canceled without further notice to the taxpayer.

(Ord. 540, passed 1-8-2001)

§ 32.33 STATUTE OF LIMITATIONS.

(A) The village, 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.

(B) 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.

(C) 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 village, the tax paid was less than 75% of the tax due, the statute of limitations shall be 6 years maximum after the end of the calendar year in which return for the applicable period was due or end of the calendar year in which the return for the applicable period was filed.

(D) No statute of limitations shall apply if a fraudulent tax return was filed by the taxpayer.
(Ord. 540, passed 1-8-2001)

§ 32.34 VOLUNTARY DISCLOSURE.

(A) 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.

(B) A taxpayer filing a voluntary disclosure application must agree to pay the amount of tax due, along with interest of 1% per month, for all periods prior to filing of the application but not more than 4 years before the date of filing the application.

(C) 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.

(D) 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.

(E) 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.

(F) 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.

(Ord. 540, passed 1-8-2001)

§ 32.35 PUBLICATION OF TAX ORDINANCES.

(A) Any locally administered tax ordinance shall be published via normal or standard publishing requirements.

(B) The posting of a tax ordinance on the internet shall satisfy the publication requirements.

(C) Copies of all tax ordinances shall be made available to the public upon request at the Village Clerk's office.

(Ord. 540, passed 1-8-2001)

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§ 32.36 REVIEW OF LIENS.

(A) The Local Tax Administrator shall establish an internal review procedure regarding any liens filed against any taxpayers for unpaid taxes.

(B) Upon a determination by the Local Tax Administrator that the lien is valid, the lien shall remain in full force and effect.

(C) If the lien is determined to be improper, the Local Tax Administrator shall:

(1) Timely remove the lien at the village's expense;

(2) Correct the taxpayer's credit record; and

(3) Correct any public disclosure of the improperly imposed lien.

(Ord. 540, passed 1-8-2001)

§ 32.37 APPLICATION.

(A) This subchapter shall be liberally construed and administered to supplement all of the village's tax ordinances.

(B) To the extent that any tax ordinance is in conflict with or inconsistent with this subchapter, this subchapter shall be controlling.

(Ord. 540, passed 1-8-2001)

§ 32.38 EFFECTIVE DATE.

This subchapter shall be in full force and effect after passage, approval, and publication as required by law.

(Ord. 540, passed 1-8-2001)

CHAPTER 33: EMERGENCY POWERS

Section

- 33.01 Definitions
- 33.02 Declaration of emergency
- 33.03 Emergency powers; generally
- 33.04 Termination of emergency powers
- 33.05 Notice
- 33.06 Construction

33.99 Penalty

Cross-reference:

Board of Trustees, see §§ 30.30 et seq.

Mayor, see §§ 30.15 et seq.

§ 33.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CURFEW. The general prohibition against any person or persons being upon the streets, alleys, ways, or public places in the village, or specified parts thereof, or moving from place to place by whatever means, excepting those having a continuing responsibility to the public during the emergency or disaster, and those that may be specifically exempted for a particular purpose by the authority charged with enforcing the prohibition.

DISASTER. An occurrence or threat of widespread or severe damage, injury, or loss of life or property, resulting from any natural or manmade cause, including, but not limited to, fire, flood, earthquake, wind, storm, water contamination, epidemic, air contamination, extended periods of severe and inclement weather, infestation, critical shortage of fuel or energy, explosion, mob action, riot, or hostile military or paramilitary action.

EMERGENCY. A combination of circumstances requiring immediate action to suppress or prevent the spread of disease or to remove imminent danger to persons or property, and includes disasters.

(Prior Code, § 94.01)

§ 33.02 DECLARATION OF EMERGENCY.

In the event of the occurrence of facts appearing to constitute an emergency, the Mayor, Mayor Pro Tem, or Administrator acting in the stead of Mayor if he or she then not be immediately available, may declare or proclaim the existence of the emergency by signing a statement of the existing facts constituting the emergency and, at that time or within a reasonable time thereafter when circumstances admit, taking oath as to the truth of the statement. The statement shall be filed with the Village Clerk as soon as practicable.

(Prior Code, § 94.02)

§ 33.03 EMERGENCY POWERS; GENERALLY.

Upon the proclamation or declaration of an emergency or at any time during the continuation thereof to the extent deemed necessary to meet the emergency and to protect and conserve the public health, safety, and welfare, the authority responsible for the same shall have the power and authority:

(A) To suspend the provisions of any regulatory ordinance or statute prescribing procedures for

the conduct of the government or affairs of the village, if strict compliance therewith would prevent, hinder, or delay action necessary to cope with the emergency;

(B) To utilize all available resources for the village as are reasonably necessary to cope with the emergency;

(C) To enforce a curfew throughout the village or any part or parts thereof with the conditions as to application, time, or otherwise as deemed necessary, or to control ingress and egress to or from the village, or any part or parts thereto the movement of persons there within, or the occupation of premises there within;

(D) To suspend or limit the dispensing, delivery, or transportation of alcoholic liquor, firearms, ammunition, explosives, corrosives, flammables, or combustibles;

(E) To recommend and enforce evacuation of all or a part of the population of any stricken or threatened area if necessary for the preservation of life or other emergency mitigation, response, or recovery, and to prescribe routes, modes of transportation, and destinations in connection therewith;

(F) To exercise any power or perform any function of the corporate authority of the village;

(G) To close commercial establishments, places of amusement or accommodations, and other places of public resort;

(H) To control, restrict, and regulate the use, sale, or distribution of food, fuel, clothing, and other commodities, materials, goods, or services; and

Emergency Powers

(I) To perform and exercise any other functions, powers, and duties as may be necessary to promote and secure the safety and protection of the community and its population.
(Prior Code, § 94.03)

§ 33.04 TERMINATION OF EMERGENCY POWERS.

The proclamation or declaration and the powers and authority attached thereto shall extend until terminated by the issuing authority, but in no event beyond adjournment of the next regular or special meeting of the Village Board subsequent to the issuance thereof; except that the limitation shall not prevent issuance of additional proclamation or declarations.

(Prior Code, § 94.04)

§ 33.05 NOTICE.

Upon issuance thereof, notice of the proclamation or declaration, or of exercise of any power or authority responsive thereto, shall be as widely disseminated as the conditions of the time admit, but in no event less than communication of the substance thereof by the most direct means then available to the news media as may then be reached, whether by telephone, hand delivery, or otherwise, and by

posting a copy thereof at the Village Hall or at the place from which emergency operations are being centrally controlled.

(Prior Code, § 94.05)

§ 33.06 CONSTRUCTION.

Nothing contained herein shall be construed to impair any other power or authority of the village or the departments thereof but shall be construed together therewith and in addition thereto, liberally, to secure, protect, promote, and enhance the general public health, safety, and welfare.

(Prior Code, § 94.07)

Statutory reference:

Similar, see ILCS Ch. 20, Act 3305, § 10, and ILCS Ch. 20, Act 3305, § 11

§ 33.99 PENALTY.

Any person violating any provision of this chapter or refusing to obey or respond to any lawful order issued in exercise of any power or authority ordained hereby shall, upon conviction thereof, be fined not to exceed \$500.

(Prior Code, § 94.06)

CHAPTER 34: BOARDS AND COMMISSIONS

Section

- 34.01 Board of Appeals
- 34.02 Library Commission
- 34.03 Plan Commission
- 34.04 Tree Board

§ 34.01 BOARD OF APPEALS.

For provisions regarding the Board of Appeals, see Zoning Ordinance.

(Prior Code, § 32.01) (Ord. 413, passed 4-5-1993)

§ 34.02 LIBRARY COMMISSION.

For provisions regarding the Library Commission, see § 93.03.

(Prior Code, § 32.10)

§ 34.03 PLAN COMMISSION.

For provisions regarding the Plan Commission, see Zoning Ordinance.

(Prior Code, § 32.20) (Ord. 413, passed 4-5-1993; Am. Ord. 449, passed 8-15-1995)

§ 34.04 TREE BOARD.

For provisions regarding the Tree Board, see Chapter 96.
(Prior Code, § 32.21)

CHAPTER 35: DEPARTMENTS

Section

- 35.01 Administrative Department
- 35.02 Water and Sewer Department
- 35.03 Street and Building Department
- 35.04 Parks and Recreation Department

§ 35.01 ADMINISTRATIVE DEPARTMENT.

See Title III.
(Prior Code, § 33.01)

§ 35.02 WATER AND SEWER DEPARTMENT.

See Title V.
(Prior Code, § 33.02)

§ 35.03 STREET AND BUILDING DEPARTMENT.

See Chapter 90.
(Prior Code, § 33.03)

§ 35.04 PARKS AND RECREATION DEPARTMENT.

See Chapter 94.
(Prior Code, § 33.04)

CHAPTER 36: EMPLOYMENT POLICY

Section

- 36.01 Adoption by reference

§ 36.01 ADOPTION BY REFERENCE.

The village's employment policy provisions are hereby adopted by reference and incorporated herein as if set out in full. A copy of which is on file in the office of Village Clerk and is available for public inspection and copying.

(Ord. 528, passed 4-17-2000)