

CHAPTER 7
TAXATION
ARTICLE I
GENERAL TAXATION

SECTION 7-1: A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property at retail in this Village 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 8-11-1 of the Illinois Municipal Code.

SECTION 7-2. Every such person engaged in such business in the Village 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.

SECTION 7-3. 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.

ARTICLE II
HOTEL TAX

SECTION 7-4: PURPOSE

The purpose of this subchapter is to generate revenue to be placed in a fund to generate tourism through the promotion of lodging, restaurants, attractions, conventions, expositions, and theatrical, sport, cultural and other similar activities. ('92 Code, § 953)

SECTION 7-5: DEFINITIONS

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

"DEPARTMENT" The Illinois Department of Revenue.

"HOTEL" Any building or buildings in which the public may, for a consideration, obtain living quarters, sleeping or housekeeping accommodations. This term includes inns, motels, tourist homes or courts, lodging houses, rooming houses, apartment houses, and bed-and-breakfast houses.

"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.

"PERMANENT RESIDENT" Any man or woman who occupies or has the right to occupy any room or rooms in a hotel for at least 30 consecutive days for his or her own personal use unrelated to the conducting of any business or occupation.

“PERSON” Any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, or a receiver, executor, trustee, conservator or other representative appointed by order of any court.

“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.

“RENTER” Any person who pays for the privilege of using or occupying hotel room for the period for which payment is made.

“ROOM OR ROOMS” Any living quarters, sleeping or housekeeping accommodations.

“TREASURER” The Village Treasurer of the Village of Lena, Illinois. ('92 Code, § 954)

SECTION 7-6: TAX IMPOSED

(A) There is hereby levied and imposed a tax upon all persons engaged in the business of renting, leasing or letting rooms in a hotel which is located within the corporate boundaries of the village, at a rate of 5% of the gross rental receipts from such renting, leasing or letting for any purpose for each 24 hour period or portion thereof, excluding, however, from the gross rental receipts the proceeds of such rents, leasing or letting to permanent residents. The tax imposed herein shall be in addition to any and all other taxes and charges applicable to such hotels, but such other taxes and charges shall not be construed to be a part of the charge upon which this tax is levied. (Amended 8/9/04)

(B) The ultimate incidents of and liability for payment of the tax levied herein is to be borne by the person engaged in the business of leasing, renting or letting said rooms. Such owners and operators may reimburse themselves for their tax liability for this tax by separately stating such tax as an additional charge to the resident, which charge may be stated in combination, as a single amount, with state tax imposed under “The Hotel Operator’s Occupation Tax,” as provided in ILCS Ch. 35, Act 145, §§ 1 *et seq.* No tax is imposed based upon any permanent residents of any hotel.

(C) No person engaged in the business of renting, leasing, or letting rooms in a hotel shall reimburse himself for the imposition of this tax at a higher rate than the tax imposed by this subchapter.

(D) Any person subject to this tax shall transmit to the Treasurer on or before the last day of each calendar month a sum of money equal to the taxes collected pursuant to this subchapter for the preceding calendar month, and simultaneously therewith shall transmit a report upon forms supplied by the Treasurer indicating the gross receipts from the renting, leasing or letting of hotel rooms to all renters, including permanent residents as defined in this subchapter, and such other information as the Treasurer may reasonably require for the enforcement of this subchapter. Any person subject to this tax shall also file with the Treasurer copies of all sales tax receipts and report forms which the person is required to file with the state. These documents shall be filed with the Treasurer no later than five business days after said documents are transmitted to the state.

(E) Any person engaged in the business of renting, leasing or letting of hotel rooms shall maintain complete and accurate books and records, including a daily sheet showing the gross receipts for the hotel rentals for the day reported.

(F) For the purposes of enforcing and administering this subchapter, the Treasurer shall, after providing reasonable notice, have access during normal business hours to the books and records of persons and businesses subject to this subchapter. The Treasurer shall at least annually inspect said books and records and shall file a written report of his or her findings with the Village Board and with the clerk of the Stephenson County Conventions and Visitors Bureau no later than December 1 of each year.

(G) The Treasurer shall permit the representative of any unit of local government in Stephenson County which enacts a similar hotel/motel tax ordinance to inspect the records of his or her office which pertain to the tax imposed by this subchapter. The Treasurer shall also forward to each such other unit of local government copies of all such documents filed with him or her by persons or businesses subject to this tax which are located within the corporate limits of that unit of local government.

(H) There is hereby created a "Tourism Promotion Fund" into which the Treasurer shall, by the twentieth day of each month, place the proceeds resulting from the previous month's collection of this hotel tax. The monies in this fund shall be utilized solely and exclusively for the purpose of promoting tourism in the Village and the county area.

(I) This tax shall not in any manner constitute an indebtedness by the Village subject to any limitation imposed by statute or otherwise.

(J) Nothing herein adopted shall be construed to affect any suit now pending in any court or any rights accrued or liability incurred or any cause or causes of action accrued or existing under any prior resolution or ordinance; nor shall any right or remedy of any character be lost, impaired or affected by this subchapter.

(K) If any provision of this subchapter or the application thereof be held unconstitutional or otherwise invalid by a court of competent jurisdiction, such ruling shall not affect any other provision of this subchapter not specifically included in such a ruling or which can be given effect without the unconstitutional or invalid provision or application; and to this end, the provisions of this subchapter are declared severable. ('92 Code, § 955) Penalty, see § 19-9

SECTION 7-7: CONVENTIONS AND VISITORS BUREAU

(A) The Village Board hereby expresses its approval of the participation of the Village in the Stephenson County Convention and Visitors Bureau which shall be governed by a Board of Directors to be composed of nine members.

(B) The duties of said Board members shall be established by an intergovernmental agreement between the Village and the County, except as provided herein. The duties shall include, but are not limited to the requirement to supervise the operation of the tourism promotion programs, the recommendation and preparation of an annual budget, and a written annual report to be presented to both the Village Board and the County Board no later than January 31 of each year. ('92 Code, § 956)

SECTION 7-8: TRANSFER OF FUNDS

(A) Upon presentation of a proper voucher, the Treasurer shall transfer monies from the Tourism Promotion Fund to the County Convention and Visitors Bureau to reimburse the Bureau funds expended to promote tourism in the county, including but not limited to:

- (1) Publishing promotional material such as:
 - (a) A general countywide brochure;
 - (b) A county calendar of events;
 - (c) A lodging guide;
 - (d) A restaurant guide; and
 - (e) An antique and arts guide.
- (2) Prepare an advertising campaign promoting the county.
- (3) Explore signage needs, particularly in conjunction with the By-pass.
- (4) Participate in the Northwest Passage Tourism Corridor Council and other regional tourism organizations.
- (5) Work with group tour operators to encourage group tour business in the county.
- (6) Establish office facilities and hire a staff to direct the promotional efforts.

(B) The amount appropriated to support the efforts of the Convention and Visitors Bureau shall be included in the annual appropriation ordinance. The Treasurer shall not transmit any funds to the Bureau in excess of the amount appropriated by the Village Board without first obtaining the Village Board approval. ('92 Code, § 957)

SECTION 7-9: PENALTY

Any person who violates any provision of section 7-6 of this chapter, upon conviction thereof, shall be punished by a fine of not less than \$200 nor more than \$500 for the first offense, and not less than \$300 and not more than \$750 for the second and each subsequent offense during any 180 day period. A separate and distinct offense shall be regarded as having been committed each day upon which said person shall continue any such violation. ('92 Code, § 955)

**ARTICLE III
CANNABIS TAX**

SECTION 7-10: MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX (Passed 09/09/19)

(A) Tax imposed - Rate

(1) A tax is hereby imposed upon all persons engaged in the business of selling cannabis, other than cannabis purchased under the Compassionate Use of Medical Cannabis Pilot Program Act, at retail in the Village of Lena at the rate of 3% of the gross receipts from these sales made in the course of that business.

(2) The imposition of this tax is in accordance with the provisions of Sections 8-11-22, of the Illinois Municipal Code (65 ILCS 5/8-11-22).

(B) Collection of Tax by Retailers

(1) The tax imposed by this Ordinance shall be remitted by such retailer to the Illinois Department of Revenue (Department). Any tax required to be collected pursuant to or as authorized by this Ordinance and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Retailers may reimburse themselves for their seller's tax liability hereunder by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that sellers are required to collect.

(2) The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department. The Department shall have full power to administer and enforce the provisions of this article.

(C) Severability. If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

(D) Effective Date. This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law, provided, however, that the tax provided for herein shall take effect for all sales on or after the first day of January, 2020. Copies of this Ordinance shall be certified and sent to the Illinois Department of Revenue prior to September 30, 2019.

SECTION 7-11 through 7-100: RESERVED

**ARTICLE IV
LOCALLY IMPOSED AND ADMINISTERED TAXES**

SECTION 7-101: TITLE

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

SECTION 7-102: SCOPE

The provisions of this ordinance shall apply to the Village’s procedures in connection with all of the Village’s locally imposed and administered taxes.

SECTION 7-103: DEFINITIONS

Certain words or terms herein shall have the meaning ascribed to them as follows:

“ACT” The “Local Government Taxpayers’ Bill of Rights Act.”

“CORPORATE AUTHORITIES” The Village’s President and Board of Trustees.

“LOCALLY IMPOSED AND ADMINISTERED TAX OR TAX” Each tax imposed by the Village that is collected or administered by the Village not an agency or department of the State. It does not include any taxes imposed upon real property under the Property Tax Code or fees collected by the Village other than infrastructure maintenance fees.

“LOCAL TAX ADMINISTRATOR” The Village’s Treasurer 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. The local tax administrator shall have the authority to implement the terms of this ordinance to give full effect to this ordinance. The exercise of such authority by the local tax administrator shall not be inconsistent with this ordinance and the Act.

“VILLAGE” The Village of Lena, Illinois.

“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 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 Village.

SECTION 7-104: NOTICES

Unless otherwise provided, whenever notice is required to be given, the notice is to be in writing mailed not less than seven (7) calendar days prior to the day fixed for any applicable hearing, audit or other scheduled act of the local tax administrator. The notice shall be sent by the local tax administrator as follows:

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

SECTION 7-105: 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 (a) physically received the Village 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 Village, with adequate postage prepaid.

SECTION 7-106: PAYMENT

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

- (1) First to the tax due for the applicable period;
- (2) Second to the interest due for the applicable period; and
- (3) Third to the penalty for the applicable period.

SECTION 7-107: CERTAIN CREDITS AND REFUNDS

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

(B) The statute of limitations on a claim for credit or refund shall be four (4) or less years after the end of the calendar year in which payment in error was made. 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;

(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 ten (10) days of the receipt by the local tax administrator of any claim for a refund or credit, the local tax administrator shall either:

(a) Grant the claim; or

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

(3) In the event the local tax administrator grants, in whole or in part, a claim for refund or credit, the amount of the grant for refund or credit shall bear interest at the rate of seven percent (7%) 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.

SECTION 7-108: AUDIT PROCEDURE

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

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

(1) The tax;

(2) The time period of the audit; and

(3) A brief description of the books and records to be made available for the auditor.

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

(C) The taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted not less than seven (7) days, nor more than thirty (30) days, from the date the notice is given, unless the taxpayer and the local tax administrator 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 thirty (30) day period provided for above, approved in writing, that is convenient to the taxpayer and the local tax administrator.

(D) Every taxpayer shall keep accurate books and records of the taxpayer's business or activities, including original source documents and books of entry denoting the transactions which had given rise 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 Village.

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

(F) If an audit determines there has been an overpayment of a locally imposed and administered tax as a result of the audit, written notice of the amount of overpayment shall be given to the taxpayer within thirty (30) days of the Village's determination of the amount of overpayment.

(G) 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.

SECTION 7-109: 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 receives written notice from the local tax administrator of a determination of tax due or assessment may file with the local tax administrator a written protest and petition for hearing, setting forth the basis of the taxpayer's request for a hearing. The written protest and petition for hearing must be filed with the local tax administrator within forty-five (45) days of receipt of the written notice of the tax determination and assessment.

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

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

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

SECTION 7-110: HEARING

(A) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under section 19-109 above, the local tax administrator shall conduct a hearing regarding any appeal.

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

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

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

SECTION 7-111: 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.

(A) 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 twelve percent (12%) per annum, based on a year of 365 days and the number of days elapsed.

(B) LATE FILING AND PAYMENT PENALTIES: If a tax return is not filed within the time and manner provided by the controlling tax ordinance, a late filing penalty, of five percent (5%) of the amount of tax required to be shown as due on a return shall be imposed; and a late payment penalty of five percent (5%) of the tax due shall be imposed. 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 note of tax liability, then a failure to file penalty shall be assessed equal to twenty-five percent (25%) of the total tax due for the applicable reporting period for which the return was required to be filed. A late filing or payment penalty shall not apply if a failure to file penalty is imposed by the controlling ordinance.

SECTION 7-112: 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.

SECTION 7-113: INSTALLMENT CONTRACTS

The Village may enter into an installment contract with the taxpayer for the payment of taxes under the controlling tax ordinance. The local tax administrator may not cancel any installment contract so entered unless the taxpayer fails to pay any amount due and owing. Upon written notice by the local tax administrator that the payment is thirty (30) days delinquent, the taxpayer shall have fourteen (14) days to cure any delinquency. If the taxpayer fails to cure the delinquency within said fourteen (14) day period or fails to demonstrate good faith in restructuring the installment contract with the local administrator, the installment contract shall be canceled without further notice to the taxpayer.

SECTION 7-114: STATUTE OF LIMITATIONS

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 forty-five (45) days after receiving notice of the reviewed tax returns to make any request for refund or provide any tax still due and owing.

(A) No determination of tax due and owing may be issued more than four 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 or the applicable period was due, whichever occurs later.

(B) If any tax return is not filed or if during any four-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 six (6) years maximum after the end of the calendar year in which return for the applicable period was due or end of the calendar year in which the return for the applicable period was filed.

(C) Statute of limitations shall not apply if a fraudulent tax return was filed by the taxpayer.

SECTION 7-115: VOLUNTARY DISCLOSURE

For any locally imposed and administered tax for which a taxpayer has not received a written notice of an audit, investigation, or assessment from the local tax administrator, a taxpayer is entitled to file an application with the local tax administrator for a voluntary disclosure of the tax due. A taxpayer filing a voluntary disclosure application must agree to pay the amount of tax due, along with interest of one percent (1%) per month, for all periods prior to the filing of the application but not more than four (4) years before the date of filing the application. A taxpayer filing a valid voluntary disclosure application may not be liable for any additional tax, interest, or penalty for any period before the date the application was filed. However, if the taxpayer incorrectly determined and underpaid the amount of tax due, the taxpayer is liable for the underpaid tax along with applicable interest on the underpaid tax, unless the underpayment was the result of fraud on the part of the taxpayer, in which case the application shall be deemed invalid and void. The payment of tax and interest must be made by no later than ninety (90) days after 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 ninety (90) days after a final determination and the exhaustion of all appeals of the additional amount owed or the date agreed to by the local tax administrator, whichever is longer.

SECTION 7-116: 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 Village Clerk's Office.

SECTION 7-117: The local tax administrator shall establish an internal review procedure regarding any liens filed against any taxpayers for unpaid taxes. Upon a determination by the local tax administrator that the lien is valid, the lien shall remain in full force and effect. If the lien is determined to be improper, the local tax administrator shall:

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

SECTION 7-118: APPLICATION

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

SECTION 7-119: SEVERABILITY

If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

SECTION 7-120: EFFECTIVE DATE

This ordinance shall be in full force and effect, after passage, approval and publication as required by law. (Passed 01/08/2001)