

ORDINANCE NO. 2018-35

AN ORDINANCE AMENDING CHAPTER 3.40 OF THE  
MUNICIPAL CODE OF THE CITY OF STREATOR TO AMEND THE  
SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX.

WHEREAS, the City of Streator, LaSalle and Livingston Counties, Illinois (City) has the authority to adopt ordinances and to promulgate rules and regulations that protect the public health, safety, and welfare of its citizens; and

WHEREAS, the City Council previously adopted Ordinance Numbers 2003/4-28, 2003/4-35 and 2004/5-11 which, among other things, imposed certain taxes and fees related to telecommunications services as permitted by the Telecommunications Infrastructure Maintenance Fee Act, 35 ILCS 635/1 *et seq.*, and the Simplified Municipal Telecommunications Tax Act, 35 ILCS 636/5-1 *et seq.*; and

WHEREAS, the City Council previously enacted Ordinance No. 2003/04-28 which imposed a telecommunications tax at a rate of 3% of gross charges in accordance with the Simplified Municipal Telecommunications Tax Act, 35 ILCS 636/5-1, *et seq.*; and

WHEREAS, the City Council deems it advisable to increase the telecommunications tax to a rate of 6% of gross charges in accordance with the Simplified Municipal Telecommunications Tax Act.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Streator as follows:

- A. Recitals. The facts and statements contained in the preambles to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.
- B. Amendment to Chapter 3.40 of the Streator Municipal Code of Ordinances. Chapter 3.40 of the Streator Municipal Code of Ordinances is amended as provided herein (deletions are shown in ~~strike-out~~ font and additions are shown in underlined font).
  1. Section 3.40.010 is amended as follows.
    - a. The first paragraph of the definition of "Gross charge" is amended as follows:

"Gross charge" means the amount paid for the act or privilege of originating or receiving telecommunications in this municipality and for all services and equipment provided in connection therewith by a retailer, valued in money whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. "Gross charges" for private line service shall include charges imposed at each channel termination point within this municipality, ~~charges for the channel mileage between each channel point within this municipality,~~ and

charges for that portion of the ~~interstate~~ inter-office channels provided within ~~this municipality, Illinois~~. Charges for that portion of the inter-office channel connecting 2 or more channel termination points, one or more of which is located within the jurisdictional boundary of this municipality, shall be determined by the retailer by multiplying an amount equal to the total charge for the inter-office channel by a fraction, the numerator of which is the number of channel termination points that are located within the jurisdictional boundary of this municipality and the denominator of which is the total number of channel termination points connected by the inter-office channel. However, "gross charge" shall not include any of the following:

b. Subsection 5. of the definition of "Gross charge" is amended as follows:

5. Charges to business enterprises certified as exempt under Section 9-222.1 of the Public Utilities Act to the extent of such exemption and during the period of time specified by the ~~department of commerce and community affairs~~ Department of Commerce and Economic Opportunity;

c. The definition of "gross charge" is amended to include the following subsection 10:

10. Charges for nontaxable services or telecommunications if (a) those charges are aggregated with other charges for telecommunications that are taxable, (b) those charges are not separately stated on the customer bill or invoice, and (c) the retailer can reasonably identify the nontaxable charges on the retailer's books and records kept in the regular course of business. If the nontaxable charges cannot reasonably be identified, the gross charge from the sale of both taxable and nontaxable services or telecommunications billed on a combined basis shall be attributed to the taxable services or telecommunications. The burden of proving nontaxable charges shall be on the retailer of the telecommunications.

d. The last sentence of the definition of "Telecommunications" is amended as follows:

For purposes of this section, "prepaid telephone calling arrangements" means that term as defined in Section 2-27 of the Retailers' Occupations Tax Act.

(Ord. 2003/04-28 §§ B, C (part); Ord. 2018-35; § B.1.)

2. Section 3.40.020 is amended as follows.

A tax is imposed upon any and all the following acts or privileges;

- A. The act or privilege of originating in the municipality or receiving in the municipality intrastate telecommunications by a person at a rate of ~~three~~ six percent of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-municipal taxation of the act or privilege that is subject to taxation under this subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another municipality on that event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of the tax properly due and paid in the municipality that was not previously allowed as a credit against any other municipal tax.
- B. The act or privilege of originating in the municipality or receiving in the municipality interstate telecommunications by a person at a rate of ~~three~~ six percent of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-state or multi-municipal taxation of the act or privilege that is subject to taxation under this subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another state or municipality in this State on such event, shall be allowed a credit against any tax enacted pursuant to or authorized by this section to the extent of the amount of such tax properly due and paid in such other state or such tax properly due and paid in a municipality in this State which was not previously allowed as a credit against any other state or local tax in this state.
- C. The tax imposed by this chapter is not imposed on such act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by the municipality.

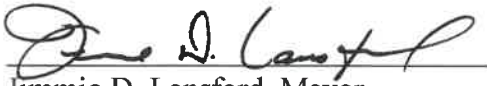
(Ord. 2004/05-11 § 1; Ord. 2003/04-35 § 1; Ord. 2003/04-28 §§ B, C (part); Ord. 2018-35 § B.2.)

- C. **Effective Date.** This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law, provided, however, that the tax rate change in Section B.2. of this Ordinance shall take effect for all gross charges billed by telecommunications retailers on and after January 1, 2018. This Ordinance may be published in pamphlet form.
- D. **Filing with the Illinois Department of Revenue.** A certified copy of this Ordinance shall be filed with the Illinois Department of Revenue's Local Tax Allocation Division on or before August 1, 2018.

- E. 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.

Passed by the City Council of the City of Streator, LaSalle and Livingston Counties, Illinois at a regular meeting thereof held on July 18, 2018, and approved by the Mayor on the same day.

APPROVED:

  
 Jimmie D. Lansford, Mayor

ATTESTED:

  
 Patricia L. Henderson, City Clerk

RECORD OF THE VOTE	Yes	No	Abstain	Absent
Mayor Jimmie D. Lansford	√			
Councilwoman Tara Bedei	√			
Councilman Ed Brozak	√			
Councilman Brian Crouch	√			
Councilman Joe Scarbeary	√			