

CITY OF COLLINSVILLE, ILLINOIS

ORDINANCE NO. 18-10

**AN ORDINANCE PROVIDING FOR THE
CONTINUANCE OF THE FOOD AND BEVERAGE TAX
IN THE CITY OF COLLINSVILLE, ILLINOIS**

ADOPTED BY THE

CITY COUNCIL

OF THE

CITY OF COLLINSVILLE, ILLINOIS

THIS 22nd DAY OF JANUARY, 2018

Published in pamphlet form by authority of the City Council of the City of
Collinsville, Madison County, Illinois, this 22nd day of January, 2018.

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IN THE CITY OF COLLINSVILLE, ILLINOIS**

WHEREAS, the City of Collinsville, Illinois, is a home rule unit of government pursuant to the provisions of Article VII, Section 6 of the Illinois Constitution of 1970;

WHEREAS, as a home rule unit of local government, the City may exercise any power and perform any function pertaining to its government and affairs, except as limited by Article VII, Section 6 of the Illinois Constitution of 1970;

WHEREAS, as a home rule unit of government the City also has the power and authority pursuant to Section 8-11-6a of the Illinois Municipal Code (65 ILCS 5/8-11-6a) to impose a tax on food prepared for immediate consumption on and/or off the premises of the prepare food retailer, and on alcoholic beverages sold by businesses at retail for consumption on the premises of the alcoholic beverage retailer;

WHEREAS, the corporate authorities of the City have determined that it is in the best interests of the City and its residents to impose a tax on food prepared for immediate consumption on and/or off premises of the prepared food retailer, and on alcoholic beverages sold by businesses at retail for on premises consumption of said alcoholic beverages;

WHEREAS, effective May 1, 2018, the Collinsville Metropolitan Exposition Auditorium and Office Building Authority is dissolving as an Illinois special district unit of government, and from thereon the City will be assuming all operations and functions of the Authority, including but not limited to the Gateway Center facilities;

WHEREAS, effective May 1, 2018 with the dissolution of the Collinsville Metropolitan Exposition Auditorium and Office Building Authority, the Food and Beverage Tax implemented pursuant to 70 ILCS 200/60-15 for the financial support of the Authority will cease to exist, thus endangering the maintenance of, and all operations related to, the Gateway Center facilities;

WHEREAS, this Collinsville Food and Beverage Tax is separate and in addition to any other tax imposed by any City ordinances adopted prior to or hereinafter.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Collinsville, Illinois, as follows:

Section 1: Effective May 1, 2018, City Ordinance No. 2254 entitled “An Ordinance Establishing a Tax Within a Special District on the Sale of Food and Beverages Prepared for Immediate Consumption to Provide Additional Financial Support for the Collinsville Metropolitan Exposition, Auditorium and Office Authority,” and passed March 28, 1988, is hereby repealed in its entirety, and is replaced with provisions passed pursuant to this Ordinance.

Section 2: Title 3 (Revenue and Tax) of the Collinsville Municipal Code is hereby amended with the addition thereto of Chapter 3.32 entitled “Food and Beverage Tax” to be read in its entirety as follows:

**“Chapter 3.32
FOOD AND BEVERAGE TAX**

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|-------------------------|------------------------------|
| Section 3.32.010 | Definitions |
| Section 3.32.020 | Imposition of Tax |
| Section 3.32.030 | Liability for Payment |
| Section 3.32.040 | Collection of Tax |
| Section 3.32.050 | Rules and Regulations |
| Section 3.32.060 | Filing of Application |

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| Section 3.32.070 | Filing of Return |
| Section 3.32.080 | Failure to File Return and Pay Tax |
| Section 3.32.090 | Record |
| Section 3.32.100 | Failure to Remit Licensing |

Section 3.32.010 Definitions.

For the purposes of this Chapter, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this Section:

"Alcoholic Liquor" means any spirits, wine, beer, ale or other liquid containing more than one half of one percent of alcohol by volume, which is capable of being consumed as a beverage by a human being.

"Bar" means and includes an establishment for the serving of alcoholic liquor.

"Catering" means an establishment wherein food is prepared in one facility for serving elsewhere.

"City" means the City of Collinsville, Illinois

"Owner" means any person with a whole or any partial ownership interest in a restaurant, retailer, or any other entity, or the operation thereof, that is subject to the provisions of this Chapter.

"Person" means any natural person, trustee, court appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agency, government corporation, municipal corporation, district, or other political subdivision, contractor, supplier, vendor, vendee, operator, user or owner, or any officers, agents, employees or other representatives, acting either for himself or herself or for any other person in any capacity, or any other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular or plural is included in any circumstance.

"Prepared Food Item for Immediate Consumption" means and includes any and all material, whether solid, semi-solid or liquid used or intended to be used for human consumption and for nourishment of the human body. The term defined herein includes any and all alcoholic liquor except alcoholic liquor purchased in original package for consumption off the premises where sold. The term excludes soft drinks as defined in Section 2-10 of the Illinois Retailers' Occupation Tax Act (35 ILCS 120/2-10). The term shall include and be limited to:

1. Food items purchased at a restaurant, bar or other establishment where facilities are provided for on-premise consumption. Such terms shall not include food items

purchased from other areas of any such establishment where such facilities providing on-premise consumption utilize a separate means of collecting receipts for such food purchased for immediate consumption and are physically separated from such other areas in the establishment.

2. Food items purchased from concession stands and other establishments which sell food items primarily in individual sized servings, such as ice cream cones, candy bars and individually serve sandwiches, for immediate on-premises or off-premises consumptions; and
3. Food items which are purchased hot or are otherwise purchased prepared by immediate on-premise or off-premise consumption from catering establishments and restaurants with delivery services, except food items prepared off the premises.

For purposes of this Section, "food items prepared off the premises" means food items which are grilled, broiled, baked, fried or cooked in some other similar manner off the premises of the retailer. Such term shall not include food items which are precooked and then heated or warmed-up off the premises or food items which were previously cooked or prepared and then reheated off the premises.

"Restaurant" means and includes any public place kept, used, maintained, advertised and held out to the public, as a place at which prepared food items for immediate consumption are served and/or prepared, whether or not consumed or intended to be consumed on the premises, but shall not include coin-operated automatic food dispensing machines.

"Retailer" means any person or persons having a sufficient proprietary interest in conducting a business which sells prepared food items for immediate consumption so as to entitle such person or persons to all or a portion of the net receipts from the sale thereof.

Section 3.32.020 Imposition of Tax

A. From and after May 1, 2018, there is hereby levied and imposed upon the privilege of purchasing food items prepared for immediate consumption in the City, a tax of one percent (1%) of the purchase price, exclusive of any other tax charged for such food items.

B. Exempt from the tax imposed above are persons purchasing food items prepared for immediate consumption served or prepared at:

1. A restaurant owned by a church, grade school, junior high school or high school within the City.

2. Restaurants used primarily in conjunction with institutional living I establishments within the City, including but not limited to dormitories, fraternities, sororities, residential care facilities and hospitals;
3. Premises or operations of not-for-profit organizations that serve I food on an occasional and irregular basis.

Section 3.32.030 Liability for Payment

- A. The ultimate incidence of and liability for payment of said tax shall be borne by the person who purchases prepared food for immediate consumption. Said person hereinafter referred to as "consumer."
- B. All retailers shall jointly' and severally have the duty to collect and shall collect and account for the tax imposed in this Chapter from each consumer at the time that the consideration for such purchase is paid. Such retailers shall be the trustee for the City in the collection and remittance of said taxes.

Section 3.32.040 Collection of Taxes

Every person required to collect the tax levied by this Chapter shall secure said tax from the consumer at the time they collect payment for the service of prepared food. Upon the invoice receipt or other statement or memorandum of the payment given to the consumer at the time of payment, the amount due under the tax provided in this Chapter shall be stated separately on said documents or combined with the amount of the Illinois Retailer's Occupation Tax Act.

Section 3.32.050 Rules and Regulations

The City may promulgate rules and regulations not inconsistent with the provisions of this Chapter concerning the enforcement and application of this Chapter. The term "rules and regulations" includes, but it not limited to, a case-by-case determination whether or not the tax imposed by this Chapter applies.

Section 3.32.060 Filing of Application

The owner of each restaurant shall complete a City application for registration within thirty (30) days of opening for business. The application shall be filed with the of the City.

Section 3.32.070 Filing of Return

A. All retailers shall pay to the City all taxes collected. The owner of each restaurant within the City shall file monthly tax returns showing tax receipts received during each monthly period on forms prescribed by the City. The return shall be filed before the 25th day of the calendar month next succeeding the month for which the return is made and shall be accompanied by payment of all taxes due and owing for the month covered by said return.

B. The first taxing period for the purpose of this Chapter shall commence on May 1, 2018, and the tax return and payment for such period shall be due on or before June 25, 2018. Thereafter, reporting periods and tax payments shall be in accordance with the provisions of this Chapter.

C. Any payment made by check which is returned to the City because of insufficient funds may result in the City requiring the retailer to make future payments by cashier's check or money order.

Section 3.32.080 Failure to File Return and Pay Tax

A. If for any reason any tax is not paid when due, a penalty at the rate of five percent (5%) per thirty (30) day period or portion thereof, from the day of delinquency shall be added and collected.

B. In addition to the penalty assessed, any amount of tax which is not paid when due shall bear interest at the rate of two percent (2%) per month or fraction thereof from the date when such tax becomes past due until such tax is paid or a judgment thereof is obtained by the City.

C. As compensation for services rendered in the collection and payment of this tax, retailers filing a tax return may retain an amount of money equal to one percent (1 %) of the tax due.

Section 3.32.090 Financial Records

A. All retailers shall cause complete and accurate books, records and accounts showing the gross receipts for sale of taxable prepared food items and the taxes collected each day, which shall be made available in the City for examination by the City upon reasonable notice and during customary business hours.

B. The financial records of any restaurant submitted pursuant to this Chapter or any rule and regulation promulgated thereunder shall be considered confidential proprietary information and shall not be disclosed except as allowed by law.

Section 3.32.100 Failure to Remit; Licensing

Payment and collection of said tax may be enforced by action in any court of competent jurisdiction and failure to collect, account for and pay over any tax collected from purchasers of taxable items shall be cause for revocation of any City license of such retailer or applicable to the premises, thereof, in addition to any other penalty provided in the City's Municipal or state statutes."

Section 3: In the event any section or provision of this Ordinance shall be held unconstitutional or invalid by any Court, in whole or in part, such holding shall not affect the validity of this Ordinance or any remaining part of this Ordinance, other than the part held unconstitutional or invalid.

Section 4: All ordinances, or parts thereof, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of their inconsistencies.

Section 5: Nothing contained herein shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof, unless expressly set forth herein.

Section 6: This Ordinance is effective upon its passage by the City Council, approval by the Mayor, and publication according to law.

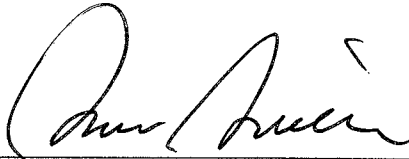
Passed and approved this 22nd day of January, 2018.


Ayes: Jerome, Brombolich, Green, Stehman, Miller

Nays: None

Absent: None

Approved: January 22, 2018

APPROVED: 
JOHN MILLER, MAYOR

ATTEST: 
KIM WASSER, CITY CLERK

RECORDED: _____, 2018.

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