

CHAPTER 51.2

FOOD AND BEVERAGE TAX

Section 1. **DEFINITIONS.** The words and phrases used in this Chapter shall have their normal and customary meanings except as otherwise defined in this Section.

(1) "Alcoholic Liquor" shall have the meaning ascribed thereto in the Illinois Liquor Control Act of 1934 (230 ILCS 5/1-1 et seq.), and any successor statute, and shall be construed as synonymous with the term "Alcoholic Beverage".

(2) "Person" means any individual, firm or corporation, representative or entity.

(3) "Purchase at Retail" means to obtain for use or consumption in exchange for a consideration, whether in the form of money, credits, barter or any other nature, and not for resale.

(4) "Retailer" means a person who sells or offers for sale for use or consumption and not for resale.

(5) "Retail food facility" means any inn, restaurant, eating place, drive-in restaurant, buffet, cafeteria, cafe, lunch counter, fast food outlet, catering service, coffee shop, diner, sandwich shop, soda fountain, tavern, bar, cocktail lounge, soft drink parlor, ice cream parlor, tea room, delicatessen operations, movie theater, mobile food or beverage or ice cream vehicle, hotel, motel, club, or other facility where prepared food or beverage is sold at retail in the City and whether or not situated in connection with some other endeavor or enterprise but does not include public or private schools, boarding houses, grocery stores or convenience stores whereat food is not intended to be consumed on the premises except as to items customarily

Revised 06/2016

furnished by delicatessens or caterers, the service of food to patients or residents of hospitals or nursing homes or similar residential care facilities, or programs for the central preparation of meals to be delivered and consumed at private residences of invalids or the elderly, or churches other than those frequently and regularly selling food at retail.

Section 2. **TAX IMPOSED.** A tax, in addition to any and all other taxes, is hereby imposed upon the use and privilege of purchasing alcoholic beverages at retail at any place within the City, and upon the use and privilege of purchasing beverage or food prepared for immediate consumption at retail at any retail food facility within the City, at the rate of two percent (2%) of the purchase price of such food or beverage, the ultimate incidence of and liability for payment of which shall be borne by the purchaser thereof.

Section 3. **CERTIFICATE OF REGISTRATION.** No person shall operate or maintain a retail food facility within the City without obtaining a certificate of registration for the same from the Department of Finance, application for which shall be made upon forms provided by said Department requiring the furnishing of such pertinent information regarding such facility and the ownership and operation thereof as is reasonably necessary or desirable to facilitate the enforcement and administration of the provisions hereof.

Section 4. **DUTY TO COLLECT TAX.** The owner and the operator of each retail food facility and each premises licensed for the sale at retail of alcoholic liquors within the City shall, jointly and severally, have the duty to collect and account for said tax from each purchaser at the time that the consideration for such purchase is paid, and any amount so collected or required to be collected by the provisions hereof shall constitute a debt owed to the City by such owner and operator.

Section 5. **RECORDS.** Said retailer shall cause complete and accurate books, records and accounts, showing the gross receipts for sales of food and beverage 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.

Section 6. **MONTHLY RETURNS.**

(a) A sworn monthly return shall be filed with the Finance Department of the City no later than the twentieth day of the calendar month next succeeding the month for which the return is made, a sum of money equal to the amount of food and beverage tax owing for the preceding month, accompanied by a sworn monthly return in a format prescribed by the Finance Director containing such information as the Finance Director may reasonably require including, but not limited to all receipts from taxable purchase of food and beverage and the tax collected for such.

(b) Any person filing a timely return pursuant to this Section may retain One and Three quarters (1.75) percent of the tax they collect to be remitted with that return. This retention is allowed for the purpose of compensating for the costs incurred in complying with the duties and obligations set forth under this Chapter. If the return is not timely filed, no retention shall be allowed. (Amended, Ordinance No. 2016-38, June 20, 2016)

Section 7. **DELINQUENCY.** If for any reason any tax is not paid when due, a penalty at the rate of ten percent (10%) per thirty (30) day period, or portion thereof, from the day of delinquency shall be added thereto and paid. (Amended, Ordinance No. 2011-72) (Amended, Ordinance No. 2016-38, June 20, 2016)

Section 8. **OVERPAYMENT.** If any retailer collects an amount upon a sale not subject to the tax imposed hereby but which amount is purported to be the collection of said tax, or if a

retailer collects an amount upon a sale greater than the amount of the tax so imposed thereon and does not for any reason refund the same to the purchaser who paid the same before filing the return for the period in which such occurred, said retailer shall account for and pay over those amounts to the City along with the tax properly collected.

Section 9. **ENFORCEMENT.** 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 said tax shall be cause for revocation of any City license for such facility or applicable to the premises thereof all in addition to any other penalty provided in this ordinance.

Section 10. **RULES AND REGULATIONS.** The City Manager shall cause the provisions hereof to be enforced and administered and in order so to do is authorized to promulgate and publish such rules and regulations and make such rulings and decisions not in conflict therewith which he may deem necessary or desirable, all subject however to the further order of the Council.

Section 11. **PENALTY.** Any person operating a retail food facility within the City without a certificate of registration, or failing or omitting to pay said tax when due, or failing or omitting to collect, or to account for, or to pay over said tax, or failing to comply with said rules, regulations and rulings shall, in addition to any other payment or penalty provided herein or elsewhere by law or ordinance be fined not less than Two Hundred Fifty Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00). (Amended, Ordinance No. 2011-72)